

A N
A P O L O G I E

O F
JOHN Lord DIGBY Earl of *Bristol*,

IN TWO PARTS.

In the First,

He setteth down those Motives and
Tyes of *Religion, Oaths, Loyalty, and*
Gratitude, which obliged him to adhere to his
late *MAJESTY* of Glorious memory in the late
unhappy Civil Warres of *ENGLAND*.

In the Second,

He vindicateth his Honour and Innocen-
cy from having in the least deserved that Cruel
Censure of being excepted (for *Life and Estate*)
by his blood-thirsty Enemies.



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at *London*, 1660.

APOLLO

THE LONDON LITERARY AND SCIENTIFIC REVIEW

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For the Second Year.

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For the Third Year.



TO THE
COVNTESSE of BRISTOL,
MY BELOVED WIFE.

HAVING by the space of almost forty years lived comfortably together, and God having been pleased to give us Children and a Posterity, to whom (instead of Plenty which they might have expected I might have left unto them) I am now like to leave nothing but the same want and poverty which is already befallen my self; I have sent unto you and them the best Legacy that I can think of, to leave amongst you, which is a Discourse consisting of two Parts. In the first, the Motives of *Honour*, *Loyalty*, and *Religion* are set down, which deterred my Conscience from taking Armes against the King: In the second, I endeavour a Vindication of my *Honour* and *Innocency* from that severe and injurious Sentence of *Exception* of the Houses, whereby they have declared me a Delinquent, that must not expect *Pardon* or *Mercy*, either in point of *Fortune*, or of *Life*, which must of necessity insinuate me unto the World, and unto Posterity, to have been a Malefactor of a more high and horrid Nature, than the Generality of those that have served the King in this War,

I wish you and they may have as much Comfort in the reading of it, as I had in the writing of it, which I believe to have been greater (notwithstanding my *Banishment* and *want* in my old Age) than hath remained in the Breast of any of those that have made us so miserable.

Although you may communicate it with your Children and Family, and near Friends; yet I would not have it generally divulged, or made publike: for although it cometh to you in Print, That is only because I wanted the means of transcribing it, and I found here a great Conveniency of Printing it; And it is not the more divulged thereby, for that there is not any one Copy thereof, but such as remain in my hands; And this unto you is the only one that I have yet parted with.

The last request you made unto me with Tears, when I departed from you, and left the kingdom, was, That I would set down in writing mine own Proceeding, and the unavoidable and Justifiableness of the Cause, for which we have suffered, and whereof I had so often discoursed unto you. And truly, such hath been in all kinds your great Deserving from me, That I have taken this pains chiefly for your Satisfaction, as I should do much more in any thing that I should judge might be to your Comfort, and that might remain as a Testimony of my Kindness, Affection, and Value of you.

BRISTOL.

THE

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Chas. F. Smith, President of the Board of Directors
of the C. & N. O. R. R. with a limited power
of attorney.



CHAP. I.

*The Introduction and Motives of writing
this Discourse.*



NEVER more unwillingly took pen in hand than at present to set down the subsequent Discourse, for mine own Vindication against so many unjust and untrue aspersions as have been cast upon me, and so great severities as have been used towards me. For it was

in my hopes that rather some publique and legal Tryal should have given me the means of clearing my self to the World, than my pen. Neither could I but in reason expect, that whether by Treaty, or by Force this unnatural War should be extinguished, such only as had been accused of illegal Oppressions, or such as had been the Inventors to set on foot, or the Instruments to act those things which were the cause of those unhappy mis-understandings and divisions betwixt the King and the People, should have been reserved to the highest and severest punishments. But that others, who neither were, nor could be, charged with any other Crime, but their adherence to either party, according as they were guided by their Consciences, might (after some such moderate sufferings as the less successful party are usually liable unto, or after some legal Trial) have been admitted to an Act of Oblivion, whereby those general animosities which this War hath raised might have been allayed, and by little and little have grown to be forgotten, and those naturall and near relations betwixt man and wife, parents and children, friend and friend, which this War by difference in opinion and part-taking hath

(2)
hath destroyed, might (together with the peace of the Kingdom) have been restored.

And in expectation of some such happy accord, or some moderate redcement when that all mens Cases might have been calmly considered of, and that the great Successes of the Houses in their war would have been seconded by their Acts of the greater and clearer Justice, And that such as had made their humble addresses unto them, should have been admitted to the means of informing them, and not to be censured or condemned unheard, especially such as Petitioned for, and submitted to the Justice of the Kingdom.

Upon this hope and expectation I passed by more than twenty printed aspersions, full of infamy, bitterness and detraction, but void of all Truth. These I neglected, although I saw the operation they had of raising a hatred and detestation in the People, who fetched their intelligence from them, and grounded their opinions of prejudice upon them.

But that which I was far from neglecting, but lay'd to my heart, with great sadness and grief of mind, was, The severe Censures of the Houses in their Propositions to the King at *Oxford*, when (without Summons, Hearing, or Conviction) I was censured to be made incapable of holding of any place or employment in the Kingdom, or to come within the Verge of the Court, without laying the least Crime or Delinquency to my charge; and since in the Propositions at *Uxbridge* (their severity increasing towards me) they added much to their former Censure; I am sure without any further Crime or Provocation on my part, having before that time (with the Kings leave) retired my self from the Court, with intention to have passed the rest of mine age in a private life, which (the War not permitting me at my House at *Sherborne*) I did at *Exeter*, for the space of more than 2 years, with as much privacy, as was possible for me. Yet was I so unfortunate, that (although their former desires of my being removed from Court were accomplished by my voluntary Act neither time did allay their displeasure.

sure, nor my absence from Court restrain their further severity towards me. But I was voted in those Propositions prepared to be offered to his *Majesty*, and afterwards sent unto him, to be in the number of the most high and capital Offenders, who were not to expect Pardon or Mercy either concerning Life or Fortune.

Yet herewith was not my Patience and resolution of Silence overborn, conceiving this *Exception* could signifie nothing more than that such Excepted Persons, upon whom the displeasure of the Houses was highly fallen, should not be admitted to that general Pardon of Course, which, joyned to some *pecuniary Mulct or Composition*, should be a Discharge and indemnity to others that had born Armes, without further Tryal or Impeachment; But that the Excepted Persons should be reserved to a particular strict Legal Tryal, and being after a fair hearing legally convicted of those presupposed, hainous and foul Crimes (the suggestions whereof induced the Houses to lay this heavy mark of Distinction upon them) They being so condemned should have the severity of Law and Justice to pass upon them, and be excepted from Pardon, as far as lay in the houses to except them. But I did not conceive that the intention of the Houses was or could be, to except them from a legal Tryal, or fair Hearing, nor from being acquitted or cleared, if they were innocent. For no man could entertain so hard or prejudiced an opinion of the two Houses, or of the Scottish Commissioners who concurred and assented to the Propositions, and the Exception, that they should, upon the transferring of such Persons as the House of Peers should nominate of their Body, or the House of Commons of their Members, or of the Body of the Commons, or the Scottish Commissioners of their Kingdom, condemn implicitly, or *Proscribe* (in compliance one to the other, without distinct knowledge of the Person or the Crimes) so many noble Personages and Families to totall ruine and destruction, without hearing or due processe of Law.

Besides their demanding of the Kings assent to pass their

Condemnations and Incapacities by Act of Parliament, must needs imply a due preceding Tryal and Conviction to be intended for the satisfying of the King of the Crimes and guilt of the Persons, For it cannot be presupposed of the Houses, that (either in regard of piety or reason) they could expect, that the King should involve himself in so mercileſs a ſentence of ſhedding ſo many mens blood, and deſtroying ſo many good Families (implicitey upon truſt of other men) without diſtinct information and ſatisfaction of his own Conſcience, And this, againſt Persons who have been moſt Loyal, and their Crime and Delinquencie only for having faithfully adhered to him, according to the Law and their Oaths.

So that my Opinion then was, That the intention of the Houſes could be no other, but that whereas ſome were admitted to a pecuniary Compoſition for their pretended Delinquency, the *Excepted Persons* ſhould not be admitted thereunto, but be reſerved to the ſeverity of Juſtice without mercy, but firſt be admitted to a legal Tryal.

And hereiu I was further confirmed by divers Treaties made with their General upon the laying down of Armes, and the ſurrendring of Cities unto them, and particularly of *Exceſter*, where I was, and was to have enjoyed the benefit of thoſe Articles, by which it was permitted unto me, and unto all other *Excepted Persons*, to endeavour by the ſpace of four moneths to make our Peace and Compoſition, And this would never have been condeſcended unto by their General, and ratified by the Vores of both Houſes, if they intended their Vote of Exception as a final Sentence, irrevocable, and unalterable, which they have likewise by their own Acts declared to be otherwiſe: For that upon mediation, and further information, they have been pleaſed, to ſeveral Persons to remit the ſeverity of the Vote of Exceptions, and have admitted them to Compoſition.

Upon all theſe preceding Reaſons, being confident that ſome ſuch fitting ſeaſon would be offered, either by way of Petition, or by way of being called to a fair and Legal Tryal,

Trial, That I should be heard, and (after a particular Charge of all such Crimes as could be laid against me) I should be admitted to a just defence, Upon this ground I have hitherto remained silent, and made no Answer to thole so many most unjust and untrue Calumnies and Aspersions which have been cast upon me both in Print and otherwise.

And now by the said Treatie of *Excester* I supposed a fair opportunite given me, to address my self unto the Houses to attain that which was ever in my desires, which was to be admitted unto an Hearing, That they might judge distinctly of my Case, after a full Information of all that concerned me; And thereupon I addressed my humble Petition to the House of Peers, That I might receive so much Favour and Justice from them, That (since I was by the Treaty admitted to use my best indeavours so far to satisfie the Houses, that I might be left in the Condition of other men that had served the King) I might be heard by them, And in case I should not upon hearing give the Houses satisfaction of not deserving to be a Person Excepted, I would not decline any thing whatsoever the Houses should order concerning me. And in Case that it should not be seasonable, in regard of their many great Affairs at that time, to afford me such a Tryal, That I might remain privately at mine House, engaging my self to do nothing to the prejudice of the Houses either by Act or Correspondence; And to make my appearance whensoever I should be summoned, and to abide their Order. This Petition had likewise an humble Request unto the Lords, That the said Petition might be communicated with the House of Commons in such sort as their Lordships in their wisdom should think fit; For I might not (being a Peer) make my addresses but by them, or their particular leave: Yet knowing that the Proposition of Exceptions was by the joint Vote of both Houses, and that no Proceeding therein could be but by joint concurrence of both Houses, I judged this the most proper Expedient of making my addresses unto them both.

I accompanied this my Petition with a Letter of much

Respect unto the Speaker of the House of Peers, with many Motives to induce them to condescend to my Petition. I received Answer by letter bearing date the 10. day of June 1646. from the *Earl of Manchester* (Speaker *pro tempore*) in the name of the House, as followeth. *My Lord, The House of Peers have received your Letter, and have commanded me to return your Lordship this Answer, That they leave your Lordship to take the benefit of the Articles of Excester, which they will carefully observe, &c.*

Hereupon, (having the Articles of Excester confirmed) I came up in person unto *London*; and exhibited my second Petition to the House of Peers, with the same Request I had formerly made, That it might be communicated with the House of Commons; And by a letter signified unto the Speaker of the House of Commons my being come to *London* upon the publique faith of the Treatie of *Excester*, The particular safe-Conduct of their General under his Hand and Seal, and his letter to the Speaker of the House of Commons, and the assurance of the House of Peers, That the said Articles should be carefully observed by them.

My second Petition was, That I might without offence sollicite my Cause, and use my indeavours to give satisfaction to the Houses. I received Answer by the *Earl of Manchester*, *That the Lords thought it reasonable that I might take the full benefit of the Articles, and use my best indeavours in soliciting my Cause in Person, to my best advantage.* But the next day after I had received this permission from the Lords to follow my Cause, I was notified and served with an Order by the Serjeant at Armes of the House of Commons, *That notwithstanding it was agreed by the Articles for Rendring up of Excester, Oxford, &c. That the Excepted Persons might come to London to endeavour to make their Peace and Composition with the Parliament, the House of Commons was resolved to admit them to no Composition, notwithstanding the said Articles, And therefore it being to no purpose for them to use any further indeavours in that kind, the Serjeant at Arms of that House was from time to time to give notice unto all such Excepted Persons, That they should immediately depart without the*

Line

Line of Communication and Parts adjacent, and not to return &c. I conceived this very derogatorie to the House of Peers, that I should be ordered by the House of Commons without the Concurrence of the Lords, especially in a matter wherein the Lords had declared themselves before.

Herein I thought it fit to have recourse unto the Lords, and sent the Copie of the said Order unto divers of them, who seemed to find it very strange, and wished it might be offered unto the House the next morning, which was accordingly done; But having been read, (after some time of a general silence) another business was set on foot, and this laid by, so that I found little relief was to be had where I might so justly have expected it.

But (in regard the Serjeant at Arms had told me, He could return no Answer to the House of Commons, but his dutie was only to notifie the Order, and to give an accompt if obedience were not given to it) I wrote a letter unto the Speaker, containing some few modest and necessary requests. But nothing would be heard concerning me, but that I was to depart the Kingdom within the limited time by the Articles of *Excester*, which being within very few daies to be elapsed, I was constrained to make all the haste I could to the sea side, and there to imbarque my Self and Companie, and horses, in a small boat, with three Mariners only and one Boy, having used all possible means to have my time enlarged only for some few daies, for the providing of fitting Transportation, but could not obtain it: so that two daies before the expiration of the time limited by the Articles of *Excester*, I imbarqued at *Weymouth*, and passed into *France*.

The Reason of my leaving the Kingdom of *England* was, First, for that I was assured that the time of the Treatie being expired, I should be seized as a Prisoner of War, and so I might have been proceeded against by Marshal law, or an Arbitrarie Power, instead of a legal Tryal according to the law; which neither then I did, nor will at any time decline. The second was, That notwithstanding by the 21. Article for the surrendring of *Excester*, it was agreed, That

no Oath, Covenant, Protestation or Subscription, should be imposed upon any Person whatsoever, comprised in the said Articles; Yet the House of Commons ordered 2 of *June* 1646. That no Person should come to reside in the Parliament Quarters, (which was then all *England*) but he should take the National League and Covenant, and the Negative Oath, notwithstanding any Articles that had been or should be made by the Army; neither of which I thought could stand with my Loyaltie, or the Oaths or Protestation which I had formerly taken: Besides, I did conceive, that no Person could live with comfort or safetie under such a Power, that so avowed he broke the Publique Faith of their own Armie and General, whom though I found very desirous to have his Capitulations punctually performed, yet were they in all things broken by the Houses or their Committees, whensoever it was for their benefit: For the General having given me his Letters, and Protection under his hand and seal for the enjoying and disposing of my goods for the space of four months according to the Articles; yet the Committees of *Dorset-shire* slighted the said Articles and Generals letters, being both shewed unto them, and sold the said goods for a third part of their value, for their own or friends advantage.

By this manner of proceeding, I (having fallen from all hope or possibilitie of clearing my self by being brought to a legal Trial, or publick Hearing, And being loath to go to my grave (from whence I cannot be far) branded with that black Mark of not being capable of Pardon or Mercie, neither for Life nor Fortunes, which must insinuate me to the world to be some horrid, pernicious and wicked Malefactor) find my self obliged in that I owe to my self, in Vindication of mine Honor and Innocencie, as likewise to my Familie and Posteritie, who will find themselves left to want and misery, to let them see that it hath been an inevitable necessity and adhering to my Loyalty and Conscience, that hath involved me in that general Calamitie that hath befallen the Kings overborn Partie, and the particular indignation of others, and no particular wicked-

ness or demerit of mine, that hath assigned and severed me to that severe and merciless Sentence of Unpardonable Destruction.

If I could have had any hope of being admitted to a public or Legal Proceeding, I should never have betaken me to any other way of clearing my self, although I am not ignorant, upon how great disadvantage and hazard any man is brought to a Tryal upon the Impeachment and pursuit of the Houses: Neither had I any reason to flatter my self with any indulgency towards me: Yet withall, I had, and have, so great confidence of my own clear Innocency, in point of not meriting to be excepted from the same course of proceeding afforded others, That I was never more desirous to attain any thing, than I was, and am, to be admitted to an equal and fair Hearing, and Legal Tryal.

As for the point of having served and adhered to the King, I shall neither deny or evade it; but my Case is in that, the same with many Thousands; and I should be too indulgent to my self, not to expect the same misfortunes and suffering with others: But now almost despairing of ever to be so happy as to see mine own Country again, in regard of my Age and Infirmities, and in less hopes of ever being admitted to a fair Hearing, since the very ways of Addresses or Petitions unto them are debarred me, and the using of any further indeavour to satisfie them is voted down, And since their Sentence is already (before either Examination, Tryal or Conviction) put in execution, (in as much as concerneth Fortunes or Estates) by their actual possessing and disposing of them: So that (having nothing left unto me but an exiled Life, present wants, and an expectation of greater poverty) I shall indeavour to bear those heavy visitations which God hath been pleased to send upon me and my Family, with that Constancy of mind, and pious submission to Gods holy will, as becometh a good Christian; and leave unto my Family and Posterity the subsequent Discourse: where, in the first place I shall set down those Reasons that induced me to adhere unto the King, being (as I conceive) thereunto bound, in
Ho-

Honour and Conscience, by the Law of God and of the Land, by many solemn Oaths, by natural Allegiance as a Subject, and by Honesty and Gratitude, as a sworn Servant both to his Father and to himself; Of which several Obligations I shall speak in the first part of this Discourse: And in the second part I shall make so true and faithfull a Narration of my Proceedings, as I doubt not But to appear to have been a Faithfull, Loyal, and Affectionate Servant to the King my Sovereign and Master, But to have had no hand in any of those Exorbitancies which caused those misunderstandings betwixt the King and his People; To have been no Incendiary betwixt the King and the Houses; But on the contrary to have used all possible indeavours as far as in me was, to have put those unhappy breaches and differences into a way of Accommodation, whereby a Civil War might have been prevented; and since the War, there never was any Overture, or hope of Peace, to which I did not contribute, both my prayers, and all the furtherance that was in my power, And so not to have deserved that mercileis Sentence of Unpardonable Destruction.

See the Speeches made for Accommodation before the war was actually begun, in Appendix, pag. 1. & 9.

CHAP. II.

The particular Reasons of adhering unto the King in this Cause, and the method observed in this Discourse.

MY intention is not in this Discourse (wherein the Vindication of mine own Honour and Innocency, and the setting down of those Reasons which deterred my Conscience from taking Armes against my King, is the main scope) to write a defence of the Cause in general, or to dispute the Question of Subjects taking Armes against their Sovereign; It will require a large and elaborate Tract apart, which may not be interrupted by any thing of the proceedings of a particular man: Neither will I censure or judge other men, nor fix upon others (though of a contrary way)

way) any thing that may seem opprobrious, notwithstanding the Stile of Traitor and notorious Traitor hath often been my Title in Print ; although that detestable name in this Case doth not make me blush. I know mens Consciences may by different Principles, be carried different waies : Neither will I censure so many men of all Qualities and Conditions, and religious Professions, of so much Impietie, as to have broken through all Tyes of Allegiance and Loyaltie, and so many Oaths, their Consciences unconsulted, and without conceiving they had found something to balance their Judgements against so many precise and clear Duties. I shall only set down the motives and inducements of mine own Conscience, which ought to be to each Christian his Guide ; against which, as he can do nothing well ; so even good Actions become evil , if they be done with an unsatisfied or dubious conscience. The Rules of Scripture being, *That we be fully perswaded in our minds,* Rom. 14. 5. *That he is happy that condemneth not himself in the thing he alloweth,* vers. 22. *That he that doubteth is damned,* And that all things that are not of faith are Sin, ver. 23. So that as it will be easily agreed, That to all Christian men, Conscience ought to be the strongest and most unresistable guide, and of so great and binding authoritie with us, That it should over-rule all considerations of Safetie, Profit, Ambition, Revenge, or other Interest whatsoever : So it behooveth each Christian man to seek out the best and most unfallible marks and directions for the guiding of his Conscience in the right way. And this I may with truth declare (and take God to my witness in it) That when I did see, that no Industry (wherein I omitted nothing that was in my power, for the stopping, allaying, or reconciling of those differences and violences, which (breaking in like a flood) prevailed over mine, and all other peaceable minded mens indeavours) could produce any good effect, (And that there was now nothing left to any man, but (in an unevitable War) to make choice of the juster side, as his Conscience towards God in the first place, and his other civil duties and obligations should dictate unto him)

him) I did, (after many Conferences with learned men of the other way, much studie, and reading of all that I could find to have written in favour or excuse of Subjects taking Arms against their King) resolve (contrary to all worldly or prudential Interests of my own) to adhere to the King, according as my Conscience was satisfied I was bound to do, By the law of God, By the doctrine and practice of all Christian Churches, and in all times, By many Oathes, By the laws of the Kingdom, By my natural Allegiance as a Subject, And by Gratitude and Fidelity, as a sworn Servant, both to his Father and Himself: Of each which several Obligations, I shall speak in the subsequent Discourse in the order that is here set down.

CHAP. III.

Reasons deduced from Scripture.

AS it will be easily assented unto, that Conscience ought to be the guide of our Actions: so the most infallible Rule whereby to guide Conscience to a Christian, ought to be, the Principles of Religion; and those Principles are, (above all other) binding and obliging which are deduced from the word of God. I shall therefore first begin with those religious and pious Motives which have in Conscience restrained me from taking Arms against the King, or making to him any hostile Resistance: For I desire it to be understood, that when I speak of Resistance, I alwaies understand *Actual and Hostile Resistance*: For I well know, that in things in themselves sinfull, *mala in se*, I ought rather to obey God than Men, And in such Cases, suffering is a full performance of our Duty of Obedience; Nay in Cases only illegal, *non illicita*, but *illegalia*, against publique or private Right, as if a Prince shall infringe the known undoubted Privileges of the Kingdom or of Parliament, or command that which is destructive unto them, The Weapons of our Resistance ought to be *Replies, Petitions, Remonstrances*.

frances , Nay we may withhold our free-will-Offerings, though not our Tributes of Dutie, we may stop our voluntarie supplies of giving Subsidies, we may make a stand in the transactions of affairs, untill the King condescendeth to do us Right, as hath been often practised, As it was in the Case of the *Earl of Arundel*, who being restrained and kept from sitting in Parliament in the year 1626. by the King, without cause shewn, The House of Peers sate many daies silent without debating or transacting any Business untill he should be restored to his libertie, and place in Parliament, or cause shewed for his detention: But to take Arms, or to use Acts of force, this is the Resistance which ought not to be used, and is neither justifiable by the Laws of God, nor of the Kingdom, And this Resistance I am far from being satisfied in my Conscience may be used by any subjects against their lawfull and undoubted Sovereign.

The places in Scripture, both in the old and new Testament commanding (by positive precept) our obedience, and forbidding Resistance to the Powers ordained over us by God, are many; But the Arguments of necessary deduction are infinite, whereas Resistance is no where commanded or allowed; And the Arguments by way of Deduction which are made use of to tollerate the Subjects taking of Arms against their Sovereign, are by putting some places of Scripture upon wrack and torture to make them speak their sense; whereas it is an undeniable Rule in Schools, That *Inferences and deductions cannot justify the breach of plain duties enjoined by any one positive precept of Scripture.*

In the old Testament it was death to disobey (much *Proofs out of the old Testament.* more hostilely to resist) the supream Authority, by positive precept, *Dent.* 17. 10. *Joshua* 1. 18. So it was to resist Parents. And certainly in States and Common-wealths, *tantum Pater Nemo* he is *Pater patriæ*, and all the civill power that was of old in Paternall Jurisdiction, is now by the Consent and Common Agreement of the People placed in the supream power of a State, and the same obedience is due to it, and resistance to it as unjustifiable.

And such as will indulge to the People, a freedom to resume their first Original Power, grounded upon that Maxime, *Omnis homo nascitur liber*, every man is born free, seduce them by so false a Principle, that the contrary of it is the truth, *Nullus homo nascitur liber*, no man is born free. Neither was there ever yet in this world, anyone man born free. It is true, there was one man created free, our first father *Adam*, But all his Children, and all his Descent after him, were born under Paternall Jurisdiction; Nay our blessed Saviour (speaking of him as a Man, and Son to the blessed Virgin) was born under this Paternal Jurisdiction and filial Obedience, whereunto he submitted himself as is plainly set down Scripture, *Luke the 2. 51.* *where it is said, *He went with Joseph and his Mother, and was subject unto them.* Now this Paternal Jurisdiction, which was at first the sole Sovereignty which governed the world, By reason of Partiality in Parents, Oppression by such as were the strongest, and a multitude of inconveniences and confusions when the World was become numerous, and full of People, and every family become a Realm, As it was too narrow, so it grew to be so hurtful unto Mankind, That men were forced for their own preservation, Common Justice, and comfort of life, to transfer this paternal Jurisdiction, (all but filial and personal Duty of honoring and obeying Parents) into Magistracy, and willingly divested themselves (for their own good) of that Native Libertie which they had before, And as the right power of Government is the same, which it was in paternall Jurisdiction, only by the Consent of the People changed into another hand: So the Obedience unto it ought to be the same, And the fifth Commandment of obeying Parents, is by all understood to extend unto the Magistrate, to whom the people having by consent transferred the power of paternal Jurisdiction, are likewise by Divine Precept bound to obedience, and the People cannot still retaine unto themselves, that, which by common consent they have divested themselves of, and transferred to others. So was it in the Common-Wealth of *Rome*, when by *lex Regia* the
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people had transferred all their power to the Emperour, they were not to resist, And it was to those Emperours, to whom our Saviour and his Apostles injoined Obedience, not only for Wrath, but for Conscience sake, and not unto the good only, but unto the steward.

David was pursued by *Saul* unjustly, his life sought by him; yet his Conscience check'd him when he had only cut off the lap of *Saul's* garment, 1 Sam. 24. 5, 6. But when the attempting upon his person was mentioned, he then cried out, *Who can stretch forth his hand against the Lords Anointed, and be guiltlesse?* 1 Sam. 26. 9. Nay, when he might have slain *Saul*, and he was desired by *Abishai* that he might strike him to the ground, he did not only forbid him, but called unto *Abner*, telling him he deserved to die, that he had not more carefully kept and guarded his Master, *vers.* 15, 16. which sheweth, that not only not to hurt, but to preserve, is our Duty. And truly, if I should have lift up my hand, or drawn my Sword against the King, I fear I should not have been so happy, as divers have been that have gone the other way, in finding out such satisfactory Arguments or distinctions as would have rid or cured me of that horror of Conscience which would have made me most miserable in the height of all prosperitie and success.

All the whole context of the old Testament incite to the obedience, to the honouring, fearing and reverencing of the King; And all the Attempts that have been made upon the persons of Kings, or their Government, are either condemned as wicked, or else were by the extraordinary and especial Commandement of God, making use of wicked men to be the Executioners of his just Judgments; Besides, the Government of the Jewish Commonwealth was a *Theocracia*, an immediate Government of God himself, and by the Consent of all Divines, Gods extraordinary Judgments are not to be made Rules or Patterns of ordinary Government. But God hath given us a written law in the Scripture; and by the constant precepts contained in them, we are to be guided; and not by the extraordina-

ry Examples recited in them, Of which we may boldly say, That as it is most certain they were not wicked (how severe soever they may seem) because God commanded them; so it is as certain it were wickedness in us to imitate them, not having Gods especial Command for them, which will not now be pretended unto by any. The Cases of *Eglon, Zimri, Jehu, &c.* are justified by Gods being the Commander of them; and Sin is nothing but an Obliquitie from Gods will: But it is Gods revealed and declared Will which is to be our rule. God is pleased to declare

** Deut. 24. 16.*

Ezech. 18. 20.

2 Kings 14. 6.

** That the Father shall not die for the sin of the Son, nor the Son for the sin of the Father; But every one shall bear his own iniquity,* This is his revealed Law by which we are to govern our selves: Yet God in his secret, yet most just Judgement, will have *Achan* with his Wife and Children, and all belonging unto him to be stoned to death, the like of *Corah*, and divers others; which particular Judgements of God we ought to fear and reverence, but not to draw from them Example or warrant against the Commandment or declared Law of God.

But in the whole old Testament I conceive there will not be found any one Precept or toleration of hostile Resistance, nor any Example (the extraordinary Cases excepted) countenancing Disobedience to the lawful Supreme Magistrate; But so much to the contrary, That there is no Duty (next after the fearing, honouring, and serving of God) more inculcated, than the fearing, obeying, and honouring of the King, as his *Viceroy*, *Dixi vos Dei estis*, * I said ye are Gods. * The Kings Throne is called the Throne of God, the Judgement of the Supreme Magistrate, the Judgement of God, and most of the Attributes of God are applied unto them.

** Psal. 82. v. 6.*

** Deut. 1. 17.*

2 Chro. 19. v. 6.

Proofs out of the New Testament.

And for the new Testament, The Precepts therein against Resistance, are not only much more positive and direct, but the punishments of much a higher nature: For the punishments of the old Testament are no where explicitly beyond death; whereas *S. Paul* saith, * That *He that resisteth the Powers ordained by God procreth to himself Damnation.*

** Rom. 13. v. 2.*

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Our Saviour (*Mat. 22. 17.*) commandeth us out of his own mouth, to render unto *Cesar*, the things that are *Cesars*, and to God, the things that are Gods. Now I must clearly profess, That before the War was actually and hostilely entred into, my Conscience was in great suspension, and doubt, that those ways and Courses which were pursued, tended not only, not to give unto *Cesar* what belonged unto *Cesar*, but to take from him that which undoubtedly and undeniably was his; as likewise to take from God that which belonged unto him, by applying that which had for many hundred years been dedicated and appropriated unto him, and his Service, to common uses, which hath in all times, and even amongst Heathen, been known by the name of *Sacrilege*. And which divers grave and learned Divines of that way (as Dr. *Burgesse*, and Mr. *White* of *Dorchester* by name) in the beginning of the Parliament told me, That they would never assent unto or approve the applying the Revenue of the Church, unto temporal uses; They conceived they might be better imployed than they were, for the maintenance of Preaching Ministers, and other pious uses, But to be taken from the Church, and applied to prophane uses, I am sure their Opinions were then against it.

For the former of taking from the King what was his, I was too much confirmed by the 19. *Propositions* of *Grocers Hall*, which were sent unto the King, some moneths before I withdrew my self from Parliament, As likewise by divers other particulars denied unto the King, which were as undoubtedly his, as the Crown. And for the second, of taking from God what belonged unto him, I wish my doubts had not been so well confirmed by the use that hath been made of the Lands and Revenue of the Church, to be made in great part, the Hire of Foreign Forces against their Prince; and the rest to satisfy the Usury of the said wages. So that those antient devout Dedications, intended for a perpetual Maintenance of Gods Church, and his Ministers, have by way of Commutation & Change been applied to the pious uses of Usury, and the maintenance of a Civil war.

See the Propo-
sitions in Ap-
pend. pag. 13.

war. But our Saviours Command being clear and positive, to give unto *Cesar* what belonged to *Cesar*; I did conceive, That Honour, Fealty, Loyalty, and Obedience did as much belong unto him, as Tribute, Service, and other Regalities of his Crown, All which I had by Oath legally established, and by lawfull Authority administered unto me, sworn more than ten times to King *James*, to belong unto him, and to his lawfull Heirs and Successors, and often likewise unto King *Charles*, And that I would in them bear to him Faith and true Allegiance. Now whether the said 19. Propositions (which are hereunto annexed) And many o her things, which as occasion shall be offered, will be instanced in, might not administer unto me a just Scruple of Conscience, of swerving from this plain precept of our Saviour, of giving unto *Cesar* what belonged unto him, and unto God the things that are Gods, I shall remit to any Christian of what Profession soever he shall be.

Our Saviour doth further confirm this his Precept by his own Example of paying Tribute-money, though he might have exempted himself from it, as being no Stranger: Yet Mat. 17. 27. *Notwithstanding* (saith he) *lest we should offend them, Go to the Sea, and cast in an Angle, &c.* So that he would rather do a Miracle, than do that which might seem to be like Sedition, or Disobedience.

St. Paul in the 13 chap. of his Epistle to the *Romans*, 1, 2, 3, & 4 verses telleth us, *That we may not resist the Powers ordained over us by God; And he that resisteth this Ordinance, shall receive to himself Damnation.* And verse the 15. *That we must be subject, not only for wrath, but for Conscience sake.* Now that the King is this Power ordained over us by God, I never heard any doubt made by any, of his just & rightfull Title. In all the Acts of Parliaments which have been by the Houses offered unto him for his Royal Assent since his coming unto the Crown, it is acknowledged, *We your Majesties most humble and most faithfull Subjects.* And if we acknowledge our selves his Subjects, we doe therein acknowledge him our Sovereign. And in the beginning of every Parliament both in the House of Peers, and in the House
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of Commons, before they take their Seat and Place in Parliament, they do by Oath declare and testify in their Conscience, *That the Kings Highnesse is the only Supreme Governour of this Realm, and all other his Countries and Dominions, &c.* And this Declaration I and all the rest of the Members of both Houses have made. So that it being an uncontroverted and confessed truth, That the King is our lawfull Sovereign, and we his faithfull Subjects, and consequently the Power ordained over us by God, the which to resist, by *S. Pauls* Doctrine delivered in plain and explicit terms, is, *To procure to our selves Damnation.* I must confesse, That (although I will nor judge other men) yet I durst not adventure my Soul upon a Moor-Cafe, or upon Distinctions or strained Interpretations, against that which appeared unto me to be the literal and clear sense. *S. Paul* declaring Rom. 14. 22, 23. *That he that doubteth is damned.* The meaning whereof I understand to be, That he that doubteth that that which he doth is sinfull and wicked, and yet adventureth to do it, therein sinneth presumptuously, and thereby runneth a hazard of Damnation. And truly I did much more than doubt; for I was as *S. Paul* requireth we should be, Rom. 14. 23. *Fully perswaded in mind of the contrary.* So that (without Impiety and making Shipwrack of my Conscience against the plain Precepts of Scripture) I could not adhere to the way of Resistance.

*Vide Stat. 1.
Jacobi cap. 1.
App. pag. 18.
wherin the Sovereignty of
the King is fully
set down,*

CHAP. IV.

*The Doctrine and Practice of the Primitive Church, of not
resisting their Princes, notwithstanding they
were Heathens or Apostates.*

I Well know that the Authority of Scripture needeth not any humane or forein support; But because the Parties of several, yea, contrary wayes, will both pretend to have the Scriptures in their favour, and from them to draw the rule of their Consciences alike, to me it seemed that nothing

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ought to be of greater Authority (under Scripture) or like rightly to interpret Scripture, than the unanimous Doctrine and practice of the Primitive times, and of those holy and learned men, who as they were nearer to the times of our Saviour, and of the Apostles, and of those Pen-men of God, so doubtless they saw by clearer light than we do now at a greater distance. And really by what I could ever read or be instructed in from others, I could never find any thing, either allowing, or countenancing the Subjects taking Arms against their Sovereign, although it were in the highest and most bloody persecution, and under the worst of Princes, many of them being Heathens, Tyrants and Apostates; And yet it was to these wicked Persecutors, to whom our Saviour and his Apostles in-joined Obedience; And the primitive Fathers practised it in their sufferings and Martyrdoms.

But I must confess I have met with a most untrue Allegation, and most injurious to Christian innocency. That the reason of the Christians bearing so many wrongs and oppressions, was, because they had not then power and means to do otherwise, or right themselves. The untruth of this Allegation will appear by the writings of those Fathers whose profession it was to bear and suffer, but not to resist; *Flere potero, dolere potero, &c. aliter, nec debeo, nec possum resistere*, was the Saying of S. Ambrose; S. Syriac saith, *Quamvis nimis & copiosus noster populus, non tamen adversus violentiam se ulciscitur, sed patitur*; And Nicephorus reporteith, that in one day, twenty thousand Christians were slain in the City of Nicomedia under Dioclesian. And many of their books are full of passages of this strain. And to conceive that power to resist was only wanting, is not only injurious to the Innocency of those Holy Men, but injurious to God, who if his Glory had not been more advanced by their Sufferings, Martyrdom and Persecution, than by Resistance; or that Resistance had been commanded by him, or he pleased therein, Those his holy Servants should not have perished for want of Power. Our Saviour saith, when for the defence of his own Person

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Lib. 5. Orat. in
Aurelium, E-
pist. ad Deme-
trianum, Ni-
ceph. lib. 7.
cap. 6. Tertulli-
an. in Apolo-
getico.

he prohibiteth resistance, * *If he would he could pray to his Father, who would send him more than twelve Legions of Angels.* * *Mat. 26. 53;*

And when the preservation of Gods Servants redoundeth more to the Glory of God than their sufferings, He is never wanting to them; * *As we see by so many deliverances by the extraordinary Power of God. But the truth is, That unto these Primitive men (treading in the steps of the Apostles) their sufferings were their Glory, their Rejoycing, and their Advantage. And divers of the Fathers, by way of prevention (as it were) foreseeing that this Scandal might be cast upon their Innocency and Christian Patience (That it was want of means and power, and not of will that they resisted not) do clearly declare, That neither Numbers, Armes, or Courage, were wanting to them wherewith they might defend themselves; nor Injuries, Oppressions, and Persecutions wanting that might provoke them thereunto: But it was the Example of Christ and his Apostles sufferings, and their holy Doctrine and Precepts commanding Obedience, that suffered not their hands to fight against the Powers ordained by God over them, although they used both hands and armes with remarkable Valour and Success against the Enemies of their Princes, notwithstanding the said Princes were Heathen, and Persecutors of the Church of God.*

But this Doctrine of not Resisting, some of our new Divines (who cannot but acknowledge it to be both the Doctrine and practice of the Apostles and Primitive Times) do now say, *That God was not then pleased to reveal the Doctrine of Resistance, But that Martyrdoms and sufferings were the way, by which he thought it then fit to plant the Church, which he is now pleased should be protected by Resistance, and enlarged by power.* Wherein they have mistaken the Text, For that, that Doctrine (instead of the Bible) is taken out of the *Alcoran*, where *Mahomet* saith, *That God had sent Christ in the Spirit of meekness to establish his Law: But now by him he would have his Law settled and established by the power of the Sword and Conquest.* And if prevailing or success might stand for Arguments, it will be hard convincing this *Ma-*

The Protestant
Churches de-
clare against
Subjects tak-
ing Arms a-
gainst their
Princes.

Confessio Au-
gust. Art. 16.
Gallia Art.
40. Helvet.
Art. 26. Scot.
Art. 24. An-
glic. Art. 27.

Of. de iur.
majest. fol.
244.

Roman Doctrine. But certainly the general and universal Tenent of all the Churches of Christendom were, and I conceive are still, That as Religion ought not to be planted by force or constraint: So Christian Subjects ought not to make Religion the ground of their Resistance or taking Arms against their Prince. And herein there is a concurrence of all Protestant Churches (although they differ in many other points) who in their publique Confessions do not admit of Hostile Resistance against their Supream Magistrate, And more particularly the Church of England (which without any immodestie) may challenge her part in the Reformation, she having had many learned Propugners of it by their Writings, and not a few that have sealed it with their Blood, by patiently dying for it) hath declared against it, confirming the Exhortation to Obedience, published in the time of Edw. 6. and the *Humilie of Obedience*, by the Articles of their Confession of Faith; The like doth the rest of the Reformed Churches in the Harmony of their Publique Confessions. So that it hath been the constant Doctrine of all Protestant Divines since the Reformation down until our times. And I have heard divers men (very eminent for their learning) aver it, That upon their Reputation they will make it appear, That these few years of Distractions in England have produced more seditious Pamphlets, tolerating and encouraging Disobedience, than all the Christian world ever saw before.

The Protestants had wont to charge the Doctrine of Resistance upon the Roman Catholics; They likewise endeavour to father it upon the Protestants. It seems both are unwilling to own it, I mean in their general received Tenents; though it be true that some of both professions have written in the defence of it, though disclaimed and burned by publique Authority, as wicked and seditious on both sides. *Andreas Rivetus* Professor at *Leyden* writing against a Jesuit that cast this Asperion upon the Protestants, that they agree with them in the Doctrine of warring against or deposing Kings, saith, That no Protestant doth maintain that damnable Doctrine, and that rashness of *Knox* and

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Buchanan is to be ascribed, *præservido Scotorum ingenio, & ad audendum prompto; To the over-hot spirit of the Scots, ever apt to be over-hold.* The Protestants of France, not only in their Articles above cited, but in their books protest their Innocency, and that they abhor this Doctrine of *Resisting* forcibly. *Pierre du Moulin* hath these words, *Nous tenons que ce n'est point à un Sujet de trouver en la Religion de son Prince occasion de desobéissance, faisant de la Piété une allumette de Rebellion.* *Nous sommes prêts d'exposer nos vies pour la defence de nos Rois, contre qui que ce soit, fust-il de nostre Religion.* *Quiconque feroit autrement, ne defendroit point la Religion, mais serviroit son ambition, & attireroit un grand blâme sur la vérité de l'Evangile.* *We hold that a Subject ought not from the Religion of his Prince to take occasion of disobedience, making of Piety a match whereby to kindle Rebellion. We are ready to expose our lives for the defence of our Kings, against whomsoever it be, although of our own Religion, And whosoever should do otherwise, should not defend Religion, but serve his own ambition, and would draw a great reproach upon the truth of the Gospel.*

Pierre du Moulin in his defence of the Faith, Pag. 32

The Roman Catholics, especially the Doctors of the Sorbous have written Volumes against it, and never fail to censure all books that maintain that Doctrine, to the fire. And the University of Paris in their published Censure of the 4. of June 1610. declare, that *Seditiosum, impium, & hæreticum est, quocunque quaesito colore à quocunque Subdito, Vassallo aut Extraneo, sacris Regum aut Principum personis vim habere,* That it is a seditious, impious and heretical thing for any Subject, Vassal, or Foreiner, upon what pretence or colour soever, to offer violence to the sacred persons of Kings or Princes. So that both Protestants and Roman Catholics declaring against it, (that is, in the general received and approved Tenents and Opinions of their several Churches) of how little Authority ought the private Opinion of some few hot-headed Men to be, who (seeking to get themselves a name by being the Authors of some new and bolder Opinions) shall upon their own fancies, or some witty or subtle Inferences and Deductions (contradict the unanimous and

universally received Opinions of all Christian Churches, and the Practice and Examples of so many *Holy Martyrs* from the very times of the *Apostles* even unto our days. Mr. Fox in his Book of *Acts and Monuments* specifieth many, even to their death, exhorting to Obedience to their Prince. I shall only set down one instance of many.

Those famous Sufferers in *Queen Maries* dayes, although the *Reformed Religion*, being newly planted, was likely by *Persecution* to be extirpate, and that some more hot and zealous seemed to have an Inclination to preserve themselves and their Religion by way of Force (for at that time their power was great) Twelve of the most eminent amongst them for Learning and Piety agreed to the setting forth a *Declaration of their Faith and Doctrine*, in which they set down their Hatred to any such Inclination, and exhort with great earnestness of Spirit, and beseech in the bowels of *Jesus Christ*, all such as fear God, to behave themselves as obedient Subjects to the *Queen*, and to the *Superiour Powers* ordained of God under her, and rather (after their Example:) to give their heads to the Block, than in any sort to *Rebell*, or to *Muster* against the *Queen*, the *Lords appointed*: And towards the end of this their *Declaration*, they renew their *Exhortation*, humbly praying all men to be in no point consenting to any kind of *Rebellion*, or *Sedition* against the *Queen*; But where they cannot obey, but they must disobey God, their to submit themselves with all patience and humility to suffer as the Will and Pleasure of the *Higher Powers* should adjudge, as they themselves were ready to do, rather than to consent to any *Doctrine* contrary to that *Confession* which they had made in the said *Declaration*. And most of all these men sealed this their *Doctrine* with their blood, being burnt in several places of the Kingdom, some in *Smithfield*, some at *Gloucester*, some at *Covenry*, as is set down particularly in the said Story, page. 1470. So that both the *Protestants* and *Roman Catholics*, in their published and avowed *Doctrine*, disclaiming and censuring this *Doctrine* of *Hostile Resistance* as *Impious* and *Heretical* (as is abovesaid) of what Authority can the private Opinions of a few men

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(condemned by their own Churches) be, for the settling and satisfying for any sober and uningaged mans Conscience; against the Doctrine and practice of the whole Christian World and in all times? It is true, that a strong fancy against any thing, makes us hardly to be perswaded to it. But we easily believe that which we earnestly wish. And it is as true, that all times have brought forth some great and able wits that have ever affected to be the Authors of new Opinions, and the Arch-Heretiques have ever been noted to have been Men of parts, though of stronger fancy than solid Judgement. Many of these new Men (if not all of them) have (by learned answers of parricular men) been confuted, as well as by publique Censures been condemned, as Impious and hereticall; as *Iunius Brutus* by *Baricane* Dr. in Divinity and Canon of the Cathedrall Church of *Tholouse*, Anno 1614. This *Iunius Brutus* is an assumed and counterfeited name, the author of it (as it should seem) being unwilling to avow the Doctrine, and was published first in *Latin*, and afterwards set out in *French* Anno 1611. by *Lewis Mayerne Turquet*. It laid the ground of such Maxims and Tenents, as the Authors that have written against them do not content themselves with shewing their Opinions to be false and erroneous, but they inveigh against them as detestable and execrable. And it is far from my Intention, in this Discourse, the scope whereof is only to set down faithfully mine own proceeding in matters of Fact; and in matters of Opinion to shew those Grounds and Reasons which have deterred my private conscience from having any part in lifting up my hand against the King, to enter into any matter of Dispute or Controversie with these new Doctors, but leave their Scholastical Confutations, to the learned Writings of those that have answered them, and to those publique Censures that have condemned them. Thus far I have, and shall make use of them, which is to shew, That (admitting all their bold and new Positions were true, I say, *posito non concessa*;) yet by their own Maxims and Principles I could find nothing that could warrant me in point of Conscience to *Hostile Resistance*, for that the matter of Fact in the present

Admitting all the Positions either by Protestants or Papists were true, which allow Subjects to take Arms against their Princes, yet they agree not with the present Case.

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sent Case, neither is, nor can be, with any truth or colour of truth applicable to their Tenents and Positions, which I shall endeavour to make clear by that which followeth.

All the Roman Catholics which have written in favour of resisting Princes in some Cases, lay for their ground a supposed Supremacy in the Pope, in matters spiritual, and hereby erect a superior Jurisdiction over Princes, which must of necessity be presupposed, before they can pretend to censure or punish: for *par in parem non habet imperium*, and that is the true and unanswerable Reason why Kings cannot be punished but only by God, because there is over them no other superiour Jurisdiction on earth; but the Pope pretendeth over all Christian Princes, as well as other Men, a direct superiour Jurisdiction, in *spiritualibus*, in matters spiritual, and an indirect Power, in *ordine ad spiritualia*, in *temporalibus*, in matters temporal. And upon this ground, the Romanists affirm, That in such cases, viz. If they be Heretiques with obstinacy, Persecutors of the Church of God, Incurably Disobedient, or Apostates, The Pope may then (say they) discharge their Subjects of their Obedience, and they may lawfully resist their Sovereign. But this Tenent is to me, and to all other Protestants of England, of no Authority, who reject this Doctrin as erroneous, and have solemnly sworn the Contrary. But that is not the point that is now to be proved, my Assertion being, That (admitting this their Tenent were true) yet it is no way applicable to the Kings present Case in matter of Fact: For those that give unto the Pope, power of censuring and punishing of Kings, first presuppose the Crimes of Apostacy, Heresie, Persecution, &c. and them to be duly and sufficiently proved, There must go out Citations to the party supposed to be the Delinquent, there must be Hearing, Conviction, and Sentence. Further, before any execution of Sentence, there must be Admonition, and a Return of Obstinacy, And after this there doth precede Excommunication before Deposition or Delegating of power to any other, either to execute the Sentence, or to discharge Subjects of their Obedience. And this will be seen in all their Writings, and in their Practices, and particularly in the Case of the King of Navarre. But

it is impertinent to insist further thereon, and to fight against the Air, when no man will have the Folly or Malice to attempt the application to our present Case. The use that I only make thereof, is, to assert what I have formerly said, That (admitting the false positions of the new Doctors that have written in favour of Subjects making Hostile Resistance against their Prince were true) yet the present Case against the King can neither be justified or maintained by any of their Principles.

Having instanced with those of the *Romish Church*, I shall examine the Tenents and Principles of other Professions, though I know not in what Church Communion to place them, since no *Protestant* or *reformed Church* doth avow, (as before is shewed) their Principles. And because *Ju- nius Brutus*, is, as it were, the Ground-work and Text of all these new Opinions, I shall faithfully set down what his Opinions and Tenents are, And how they are applicable to the present Case. He is forced as well as the *Romanists* to Constitute a Superior Jurisdiction above Kings (for hitherto they both agree) which as they place it in the Pope, so he placeth it in the people, deriving the power of Princes originally from them, and from that Maxime of *Quicquid efficit tale est magis tale*, he maketh the People above the King, and that although the King be *Major singulis*, he is *Minor universis*.

Having laid this as his Foundation he descended to set down upon what kind of Sovereigns; and in what Cases this their Power may be lawfully exercised, which he saith may be only against Tyrants; of which he saith there sheweth that are two sorts; Tyrants of *Usurpation* without any just Title, the opinions of and Tyrants in Government, which (although they may have of such Protestants as allow a just Title) yet they become Tyrants in Regimine, Tyrants in some cases in point of their government. For his first sort of Tyrants, it will of subjects taking of arms be impertinent to speak of them, for that all men acknowledge the Kings Title to be just, and we have all against their sworn it, and submitted unto it as our Ancestors Prince, if they have done unto his Ancestors, by the space of many were true, yet hundreds of years, So have we particularly unto himself are not applicable to the for the space of these twenty years and more. But for his present case,

second sort of *Tyrants*, who from legitimate and rightfull Princes, become Tyrants by their wicked and lawlesse Government, and thereby (in his opinion) make the Subjects taking of arms against them lawfull, and justifiable, The best way to apply his Doctrine unto this Case, is; to set down in his own words whom he would have to be so qualified and conditioned, as may be esteemed such a *Tyrant*, and so consequently (by his Doctrine) may be hostilely resisted: his words are, *If a Prince of deliberate purpose do ruine the State; If audaciouslie he overthroweth all Laws and Duties; If he no waies care to keep his faith; If he have no regard to Convention, Justice or pietie. If he be an Enemy to his Subjects; briefly, If he practise all these wickednesses which we have specified, or the principal of them, Then certainlie he may be judged a Tyrant, that is to say, an Enemy to God and Man.* So that the question is not here of the Prince that is none of the best, nor of the wisest, nor of one that doth the best Justice, nor of the most valiant, But of a Prince that is most wicked, Malicious and Treacherous, a Contemner of the Laws, an enemy of the People, and Destroyer of the Realm. And in the Page before, he saith, *We must not expect to have Princes in whom there is no fault to be found, but rather esteem that all goeth well with us, if those that govern us are indistinguishable good.*

Now although the Doctrine be wicked and false (for if any such *Chimera* or *Fantasm* as he hath made his Tyrant, were to be found, The People ought not *quocunque quaesito colore*, upon no preteit whatsoever to take arms against their lawful Sovereign) yet (taking it for good and Orthodox Divinity) I conceive there needeth no other Argument but the reciting of his Tyrant to make good my Assertion that the Case would no way concern the King. But the Wickednesse, Malice and Danger of this Tenent (besides the falseness of it) is, That (having once constituted a Position, That by the people the Prince may be hostilelie resisted in such and such Cases, and being in such and such a degree wicked, and the people likewise therof to be the Judges) there is a latitude left to every Sect, to every mans Passion, or to every mans Interest to fancy

fancy to himself, that what disliketh him, is *Impiety, Heresia, or Oppression*, And to judge of the measure of his Princes wickedness; or if he be not wicked enough, yet to resist him by way of prevention, lest he should become such: For he saith not long after, *That Tyranny is like an Heetique Fever, which at the beginning is easie to cure, but hard to discover; but afterward is easily known, but is become incurable, and therefore must be timely prevented.* But leaving the wickedness, danger, and falseness of this Doctrine to be considered of (admitting it were good and true, as is before said) let us examin how it is applicable to our present Case. He supposeth his Tyrant to be an *Enemy to God and Mankind* so many other *Attributes of wickedness and impiety*, That *Nero, Caligula, Domitian, Iulian the Apostate, Phalaris, and Diocysius* may well be ranked in his middle number of Princes, that were not of the worst, And I conceive that *Treason and Malice* it self will abhor the application, in any sort, of his description of a *Tyrant* unto the King, and so consequently of this new Doctrine, to our present Case.

For my self, I must avow it, that by what I have read in the above-cited Author, in *Buchanan, in Suarez, and Mariana*, and what our Countryman Bishop *Bilson* hath written, I was much confirmed in my Opinion of the unlawfulness of taking Armes against the King: * *For all rules with Exception confirm in all things but in the things excepted.* And all these Authors write with great strength, against Resistance and taking Armes against the Prince, but only in the Case of *Tyranny*, and the *Romanists* in case of the Popes deposing of them; The latter whereof (neither being, nor admitted if it were) I shall lay aside, And shall only shew how far the King is from any of these Wickednesses and Impieties, of which they compose their Tyrant.

I well know that Kings are Men made of the same Paste of flesh and blood with others, and subject to the same weaknesses; and to the same passions, And (as *Brutus* saith) our reason can no more be severed from our said passion and infirmities, than the soul can be from the Body, whilst the man is yet living, And thereupon saith, *We must not ex-*

* *Exceptio fit
mat Regulam
in non excep-
tis.*

pest to have Princes against whom nothing can be said, but we must think that all goeth well with us, if they be, *moyennement bons, Middlingly good.* And Commynes saith, *That a Prince whose virtues exceed his vices, ought to be esteemed and stiled a good Prince.* And of Princes it is a good rule, *Optimus est qui minimis urgetur, He is best that hath the fewest faults;* for some faults, being Men, they will all have. And certainly whosoever shall rightly know the King, and be acquainted with his irreprovable Course of life, his constant and dayly practice of devotions of Piety, will not deny him the Title of a *right good Prince,* And so (notwithstanding his misfortunes, and the unsuccessfullness of his affairs) he will be esteemed when he shall be rightly known, and considered without prejudice, as he is unto me, by reason of my long and near attendance about his Person, and of whom I will be bold to say without flattery, That (having by the space of almost Forty years been conversant in most of the Courts of the *Princes of Christendom,* as a publique Minister, and been no uncurious observer of the Departments of the *Princes* of my time) I never knew any Prince, or scarcely any private man, in whose life there hath been less reproveable: And what is here said, I conceive will be abundantly sufficient to shew, that, if this new Doctrine of *hostile Resistance* were admitted for good, it would in no kind justify it in this present Case; It being only applicable to the worst of men, when here it must be made use of, against an *exemplary good Man,* and who may be justly numbred amongst the *best of Princes,* As I doubt not but it will clearly appear, when the truth of many things which have been suggested against him, shall be faithfully set down, As there will be occasion to do in the following Discourse.

And so I shall pass to the next religious Obligation; whereby my Conscience hath been restrained from taking armes against the King, which is the sacred Tye of the late *Protestation,* and of so many solemn *Oaths,* whereby I have engaged my self before God to *bear him true Faith, and Allegiance, and to defend his Person, and all his just Rights and Dignities.*

CHAP.

CHAP. V.

Setting down the Obligations and Tyes by solemn Oaths and Protestations of not taking Arms against the King.

IT will be easily assented unto by all sorts of Christians, that Solemn Oaths established by lawful Authority, and legally administred, and in a matter that is not *Malum in se*, absolutely wicked, are the highest and strongest Obligations that can pass from Man to God, from Nation to Nation, from Subjects to their Prince, or Prince to their Subjects, or from Man to Man, And this is not only so declared in Scripture, but was undoubtedly part of that Natural and Moral Law which was by God planted in the heart of Man even from the Creation. For we find it in practice before any written Law, and by all Nations, Heathens and Unciviliz'd, and altogether ignorant of the Precepts, either of the old or new Testament: yet by the light of Nature, they held *Oaths* the most sacred of all Assurances, and *Perjury* amongst the most execrable and detestable of all Impieties.

*In Appendix
page 17.*

Now the Oaths that I and the rest of the Kings Subjects have taken unto him for the serving of him with Loyalty, with true Faith and Allegiance, for the Adhering to him against all Persons, for the defending of his Royal Person, for the Maintaining and Upholding of all Rights, Dignities and Prerogatives belonging to him or annexed to his Imperial Crown, will be clearly exprest, by setting down the Oaths themselves in *terminis*, which shal be annexed hereunto, for not interrupting too long the series of this Discourse.

Besides the Oaths formerly established by Law, at the beginning of this Parliament, There was a solemn *Protestation* propounded by the Houses of Parliament, to be taken by themselves, and so through the whole Kingdom, And was allowed of by the King; And this *Protestation* was by my self taken in the House of Peers and subscribed by me,

wherein I Promise, Vow and Protest in the presence of God, as far as lawfully I may, with my Life, Power and Estate, according to the Duty of my Allegiance, to Maintain and Defend his Majesties Royal Person, Honour and Estate. Now how the taking arms against him, and the assailing and pursuing of him in Battel, can be for the defence of his Royal Person, or the seizing of all his Revenue, for the Maintenance of his Estate, or the divesting of him of all Power and Authority with so many other sad things, that against him have been said and done, and which my Pen blusheth to set down, can be for the Defence and Maintenance of his Honour, or how the Stile of Majesty which in this Protestation we give him (the Usage of him considered) can be otherwise judged of but as a Scorn and Derision, I understand not; sure I am, that I took the said Protestation in earnest, and with an Attestation of God, that I would faithfully perform it; And so by his holy Assistance I will ever do, according to the express words in the said Protestation, with my Life, Power and Estate. Neither am I in any kind able to conceive, how it is possible for any Christian Man, that hath taken the former Oaths, and Protestation of Adhering, Defending and Assisting of the King against all Persons whatsoever, to swallow much lesse to digest the new Negative Oath, which is in the subsequent words: *I, A. B. do swear from my heart That I will not directly nor indirectly adhere unto or willingly assist the King in this War, or in this Cause against the Parliament, &c.* I am likewise as much unsatisfied of the late National Covenant how it may stand or be reconciled to these former Oaths and Protestation. But in regard that is a Business of great Consequence and length, I will set down in a Tract apart those Scruples which hitherto have deterred my Conscience from venturing upon it.

That these Oaths have been established by lawfull Authority, they were made and enjoined by free and unquestionable Parliaments, whose Acts (I speak not of Ordinances, but of Acts wherein the Royal Assent hath concurred) are of that high and Sovereign Authority, that the Law admitteth of no Plea nor Averment against them. And this I am confident will be by all acknowledged. They have likewise

likewise been legally administred by the Ministers, that by the said Acts have thereunto been appointed and ordained; and for the Justness and Righteousness of them, the Confirming of them by so many several Acts of Parliament; by which Laws no person can have a Voice in Parliament, but stands to all intents and purposes, as a person that had not been elected or returned, if he sit in the House before he have taken the said Oaths; And the continuing of the enjoying of them by the Houses unto this day, must clear all Dispute or Question of that kind: For the Houses do not admit of Members unto their Houses, nor Officers into their places, until they have first taken the said Oaths, in such sort, as by the Statutes is ordained: So that it is clear, that they are as well as others satisfied in the goodness of them. Besides, the subject matter of these Oaths is just and righteous in it self, being only in pursuance of those duties of Obedience which are commanded us both by the Law of God and the Land, and which are *extra-juramentum, obligantia, obliging in themselves*, though there were no Oath.

It is further to be observed, That besides the legal penalties that may be injoynd for the refusing or breaking of these Oaths, they contain something further than temporal Punishment can reach unto, they carry with them, *The heavy Judgement of God declared in Scripture against the breakers of solemn Oaths*; And in this Case, there is yet much more added, for we accompany the breach of them with the most horrid and fearfull Execration that any Christians can draw upon themselves, renouncing the Help and Protection of God Almighty, and the Benefit of our Redemption contained in the Holy Gospel, if we fail in the performance of them; which I understand to be *quantum in nobis est*, if we do not endeavour to do the utmost in our power to keep them. But voluntarily for Fear or Interest, not only to break them, but to do that, which by the very plain words, is contrary to the said Oaths, and is contrary to that sence in which I took them, (as I understand the taking of armes against the King to be) with many other things of necessity following thereupon.

on, I durst not adventure upon that which my Conscience judged so great an Impiety.

CHAP. VI.

*Setting down the unlawfulness of Hostile Resistance
drawn from Humane Laws.*

HAVING thus set down those Reasons which deterred my Conscience from making *Hostile Resistance* unto the King, which have been deduced out of the Word of God, the Doctrine and Practice of holy Men, and the Obligation of sacred Oaths, I shall now propose my Scruples drawn from humane Laws, but especially from the Laws of our Kingdom.

By the Common Law of *England* many things were Treason; But because the Common Law is not composed in one intire body or Text, and it was difficult for the unlearned and Lay-People to inform themselves exactly and distinctly what was Treason, and what was not, the goodness of the King, and the wisdom of the Parliament, in the time of *Edw. the 3.* was such, that for the avoiding of the insnaring of the People in so high a Penalty and Destruction as followeth the being convicted of Treason, It was thought fit that all those things which for the future should be esteemed or adjudged Treason, should be particularly and distinctly set down in one Law, and exclusively to all things else; which was accordingly done in the Statute of the 25 *Edw. 3.* And in case it should so fall out, that any matter should arise, besides those particulars specified in the said Statute, No judgement should passe thereon, but it should be reserved till the next Parliament, But for those Cases in the said Statute expressed they were enacted to be *Treason*, and so to be adjudged by the ordinary course of Justice.

And in regard that in the troublesome and disorderly time of *Richard the 2.* the prevailing party (which still swayed the

the Parliament) had made and unmade many several Treasons, as suited to the Designs and Interests of those that had the Power: In the first year of *Hen.* the 4. all those new-sprung-up Treasons were revoked and abolished, and Treason again reduced to the Statute of 25 *Edw.* the 3. The like inconveniences growing in the Wars betwixt the Houses of *York* and *Lancaster*, and afterwards by the fierceness of *Hen.* the 8. who upon the alterations he had made in Religion, had so insinuated the Subject that the *Protestants* of the reformed Religion could not (by reason of the six Articles) escape the Fire, nor the *Roman Catholics* (by reason of the Oath of Supremacy) the Halter; Whereupon it was again desired by the Houses, that Treason might be reduced into a certainty, according to the Statute of the 25 of *Edw.* the 3. which was accordingly so enacted the 2. of *Phil.* and *Ma.* And all these three Statutes, 25 *Edw.* 3. 1 *Hen.* 4. and 2 *Phil.* and *Ma.* are yet in force; In which the attempting of any thing against the Kings Person, the adhering to the Kings Enemies, the leaving War against the King, The seizing of any of his Forts or his Ships Royal, The Counterfeiting of the Kings Hand or his great or privy Seal, with many other particulars are so explicite and clearly enacted to be high Treason, That whosoever should be guilty of the Fact, would have as ill a Plea to plead, That *Junius Brutus*, *Buchanan*, or any of our new Doctors did hold and maintain by their writings, That it is lawfull in such and such Cases to take Armes against the King, and so consequently in all the other particulars specified in the said Statute, As a Felon that had rob'd upon the high way would have to plead, that Theft by the Law of God is not punishable by death, for which he would not want likewise his * Authors. But such as have been acquainted with the Courses held with those that have been Indicted and Arraigned for Treason, will know; That to be proceeded against only upon the plain and clear letter of the Law, is to have favourable Justice; And he shall have the Kings Attorny, and the learned Counsel with Eloquence and great strains of Wit, by Deductions and Inferences (as though

See the Stat. in
Append. pag.
19.

* *Lod. Vious;*

they had lost the day, if the Accused should be acquitted) stretch the literal Text beyond what it can rationally or honestly bear, and speaking (as they say) for the King, no man dares reprove or restrain them. But to suppose that any Allegation of Conscience, or the Opinion of learned Authors (nay if it were Texts out of Scripture against the explicate letter of the Law; would be heard or admitted) were a great Ignorance. But he would be told, as I know some have been, That all other things were *Matters debors, Nothing to the purpose*; The issue was only *factum* or *non factum*, And truly wofull experience had taught me to be wary in humane prudence, not to imbarque my self in a Business wherein my Conscience was not only altogether unsatisfied, but if I should ever be brought to a legal Tryal upon it, mine own Judgment told me, I could have nothing to say in mine own Defence of Justification; or that could preserve my Self and Posterity from total Ruine and Destruction but Prevailing and Victory. Which at the most, could but *protect*, but could not make a bad Cause good.

But besides humane Prudence and fear of Punishment, there is a Conscientious Tye of *obeying the Law*, we being taught to *obey*, not only for wrath but for Conscience sake. St. Paul saith, *That if there had been no Law, there had been no sin*; which sheweth, That the *breaking* of just Laws and legally established, is *sin*. For the supream Powers therein are chiefly disobeyed who are supposed to command more Authoritatively by their *Laws*, than by their *Verbal Commands*.

If all sin be the transgression of some Law, it would be satisfied how men are become Delinquents that have transgressed against no law.

Further, as the Laws are so positive against *Resistance* and *taking Arms against the King*: so likewise have the Laws been as carefull to *Protect* and thereby to *Incongrue* the Subject to adhere unto their King: for it is provided by the Stat. 11 of Hen. 7. Cap. 1. *That from henceforth no manner of person or persons whatsoever he or they be that attend upon the King and Sovereign Lord of this Land for the time being in his Person, and do him true and faithfull service of Allegiance in the same, or be in other places by his Commandement in his Wars within this Land or without: That for the said deed*
and

true duty of Allegiance he or they be no wise Convitt or Attaint of high Treason, nor of either offences for that Cause, by Act of Parliament, or otherwise, by any Process of Law, whereby he or any of them shall lose or forfeit Life, Land, Tenements, Rents, Possessions, Hereditaments, Goods, Chattels, or any other things, but to be for that deed and service utterly discharged of any Vexation, Trouble or Losse. And if any Act or Acts, or other Process of the Law, hereafter thereupon for the same happen to be made contrary to this Ordinance, That then that Act or Acts, or other Process of the Law, whatsoever they shall be, stand and be utterly void. Provided alwaies That no Person or Persons, shall take any benefit or advantage by this Act, which shall hereafter decline from his or their said Allegiance.

So that if they that have served the King with Fidelity according to the Law, shall by their prevailing fellow-Subjects be attainted, and their Estates forfeited and disposed of at their pleasure, It must be by some such Transcendent Power, as must be above all Laws: For as by the Law, no Subject ought either to be attainted, or lose his Estate, for serving the King in his Wars; so can no Confiscations, by the Law belong to any, but unto the King, or such as derive their Right from him. It is true, in the Heat and Contestation of War, it is usual; that whatsoever Goods or Wealth, the souldier can lay hands upon, is (*de facto*) esteemed good Purchase; But after the War is ended, the Law useth then to recover her Force. And settled Inheritances in all former Civill Wars in England, have never been disposed of by the Arbitrary Power of the prevailing Party, although they were Kings claiming the Crown by Title and might have Right to Confiscations, but by legal Convictions and due course of Law; much more in the Case of Subjects taking Arms against their King, which is alwaies (in the beginning) stiled and proclaimed Rebellion, by the King that they Oppose, untill Successor Treaty qualifie that Name, That they should not content themselves with a General Pardon, and Act of Oblivion, and the settlement of the Government for the future, to their reasonable Content and Security for themselves, and their

Estates, But that Inheritances must be *confiscated* and *disposed* of by them; and such persons as they shall please, without legal Tryal, and as it were by *Proscription* or *Decimation*, be by a Vote designed to *loſt of Life and Estate without Pardon or Mercy*; What greater Cruelty could have been used towards them, if they had fallen into the hands of the *Turk*, or most merciless Conquerour? especially if it shall be considered, that in this Case no Neutrality could be admitted, nor the most peaceable-minded man avoid the being engaged. For as by the Law it is *Treason to take Armes against the King*, by the above-recited Statutes, so by the Statute of the 19 Hen. 7. *It is loſt of all Honours, Castles, Lordships, Mannors, Lands, Tenements, and other Hereditaments, &c. not to take Armes for the King; and not to follow him in his Wars against his Enemies or his Rebels*; which the Subject (*de bene esse*) is to understand to be such as the King proclaimeth to be *Traitors*; Not that a *Proclamation* maketh them so; but the Subject is so to esteem them until they be brought to a legal Tryal.

The most miserable condition of the Kings Loyal Servants by no prudence to be prevented, nor they by any Innocency to be preserved.

So that there never was a harder Condition, nor more unavoydable, than this of the Kings present Loyal Subjects, who should have been *Traitors* by the Law if they should have taken Armes against the King; and should likewise lose ther *Lands, Honours, Castles, &c.* if they did not fight for him; And yet contrary to the Law, *Providing that no man should forfeit Life or Estate for serving of the King*, He shall by an Arbitrary Power of his fellow Subjects be condemned to lose both, without *Pardon or Mercy*; for doing that, for which he must have lost legally both Life and Estate (and his Soul to boot) if he had not done it.

CHAP. VII.

The Motives deduced from Honour, Honesty and Gratitude of not forsaking the King in his troubles.

Besides the Obligation formerly set down; deduced from the Law of God, and the positive Law of the King.

Kingdom, there is a third Law, which hath a great Authority in the hearts of all generous and noble-minded Men, which is the Law of *Honour* and *Gratitude*, which Law I conceive to be a Branch of the Original and first Law, *The Law of Nature*; For it hath had and still holdeth a Value and Reverence through all Religions, as it hath done through all times.

I must confess this Law hath been, and is in some kinds too high lifted up, and is become the *Idol* of many mens fancies, who pay unto it a more exact Obedience, and are more carefull not to transgress against it, than they are not to offend God, or the Laws they live under, whereof we have daily too many Presidents, when men rather than to be failing in point of Honour, will upon frivolous provocations, decline all duties to God and Man, and sacrifice to this *Idol* oftentimes the hazard of their Lives and Fortunes, together with their Souls: But this is an Excess and Excrefcency of *Honour* and *Courage*, in the justification whereof I know nothing that can be said; In the excuse of it, it is to be hoped, that in so generally-received an Error, whereby men become Infamous, and scarce fit for honest company that comply not therein, Custom and Universallity may allay and mitigate the Offence: But that Honour which I speak of, is better exprest by plain *moral Honesty* and *Gratitude*, when neither Fear nor Disadvantage shall drive us or withhold us from just Duties; nor the Misfortunes or Distresses of those to whom we have had former obligations, make us leave and forsake to be assistant and serviceable unto them in all just and lawfull things, although it be to our own Hinderance, or that we can expect no further good or advantage by them. And herein my Case is different from the common Cases of Subjects, being more particularly bound unto *Gratitude* by many Benefits; and unto *Honesty*, *Affection*, and *Fidelity* by my Service in places of greatest Trust about the King, both for nearness to his Person, as a Gentleman of his Bed-chamber, and as a Servant confided in as a privy Counsellour.

As for *Ingratitude*, it hath been at all times so detestable,

That to the Reproach of being ingratefull, nothing can be added. And the *betraying* or *forsaking* of a mans Master in his Distress, hath so great a Relish of the *Judas*, that no noble and generous Heart, would for any earthly Respect, do any thing that might seem to be like it, or be in hazard of being mistaken for it. For mine own part, I do ingenuously confesse; that, had I no Precepts of the Law of God, no Tyes by the Law of the Kingdom, nor Horrour of Conscience for breaking those sacred Obligations into which I was entred, by taking so many solemn Oaths; Yet *Gratitude* and *Honour* singly should have been unto me, of so high Recommendation, That no Respect of my *Life*, *Fortunes*, or *Posterity*, should have made me lift up my Hand against my King, or to have forsaken my Master in his Mileries and Distress.

I have had the Honour to have served this King and his Father by the space of more than forty years, and was by his Father, from a younger Brother of a Gentlemans Family, raised by his Goodness (above my Merit) to the Dignity of an *Earl*, and a Conveniency of Subsistence in that Quality. I was trusted by him in seven Ambassages, and called to his privie Counsel, recommended unto the Prince his Son, as a Gentleman of his Bed-chamber, and (which was above all these Obligations) I was admitted to more than an ordinary measure of his Trust and Confidence. And certainly these great Obligations from the Father could not but imprint *Gratitude* in my Heart towards the Son, especially He being now become my King and Master, And so by all the Oaths that I had taken to the Father, I was likewise by him obliged to them as his Successor.

But besides these Tyes of *Gratitude*, I must Protest, that weighing and considering impartially the Kings Actions, either as they relate to his Government as a King, or his personal Deportments as a Man (setting Conscience aside, and that I had not been thereby restrained) I could never find any thing that could satisfie my judgement in point of Moral Justice or right Reason for *the taking Arms against him*.

I must and do confess that some things and too many were ill done by the Kings Ministers, and the Subjects Propriety and Liberry might have run great hazard under an ill Prince, by those waies that were then set on foot. For to speak freely my sense, by the Principles then received, all was put into the Kings hands; for Necessity was made Master of all, and of that Necessity the King was made the sole Judge, (and Princes may easily mistake their own private Wants for publique Necessity) But from this Excess, little of the fault can with Reason be charged upon the King, and less ground for the taking of Arms; For it is well known, (the King having been unseasonably imbarqued in War both with *France* and *Spain*) his Treasure was wholly exhaust, and he was reduced to great streights. The King called divers Parliaments, but they proved so unhappy, that two or three of them were dissolved in great disorder, and the Kings Wants were not relieved, but the King and his People parted with little satisfaction on either side. The King then being enforced to use all indeavours for his Relief in these his great Wants, consulted with the Officers of his Renew, and his learned Councel, what course was to be taken for his Supply without calling a Parliament, For it had been voted at the Councel-Table, That the Calling of a Parliament was not then fit or seasonable. And at the breaking off of the last Parliament before this, *An. 1640.* It had been declared by some of the Kings Ministers in the House of Commons, *That if the King were not supplied by Parliament, he must and would betake himself to new Counsells,* The plain *English* whereof was understood to be, That the King would find out some other Course for his supplies, without making use of his People in Parliament. And this Opinion that Parliaments would for some time be laid aside, gave Boldness and Incouragements to all Promoters and Projectors to set on foot many *Monopolies* and *Projects*, which were still countenanced by the colour and pretence of Law; And amongst the rest, and indeed striking at the Root of the Subjects Propriety, was that of the *Ship-mony* brought forth. * And the Attorney Noy hath the

* In what sort the Project of the Ship-mony was set on foot. the fault whereof cannot with any Justice be attributed to the King.
name

name to have been the Father of it. He was in his time held to have been a great *Oracle of the Law*, and had been in former Parliaments a great *Patriot and Propugner of the Subjects Liberty*, and his Opinion was of *high Authority* in point of Law with the King and with all Men: He assured the King, that there might be means found out of the Kings own (especially in times of Necessity) for him to supply himself justly, and according to the Law, And so proponndeth this Project of the *Ship-mony*. The King relyed not upon the single Opinion of his Attorney, — But as a good Prince ought to do, He took the further Advice of the *Judges* who are his proper Counsel in matters of the Law, and with whom he ought to Consult, And they are sworn to *Counsell him faithfully*, The Major part of them, which involveth the rest, approved this Project as legal, But the King would not content himself with their *Verbal Advice*, But required the then *Lord Chief Justice* and the *Judges* to set down the Case, and their Opinions of it under their hands, which they did accordingly. So that it being to be presupposed that the King (more than in the points of administering Justice) cannot have a distinct knowledge, either of the Extent of his own Prerogative, or the abstruse Cases of the Law, In a point so much concerning him, as the relieving of him in his great wants by ways avowed to him to be *just* and *legal*, what more upright or prudent Course could a Prince take, than to be advised (not by young Men, or Favorites at Court) but by his *learned Counsell*, and his *grave Judges*, sworn to advise him faithfully according to their best skill, who if they have behaved themselves wickedly or corruptly, upon their heads let Judgement light, But let the King and his Throne be free. But many Men conceiving (and not without Reason) That this private and extrajudicial Opinion of the Judges, was not to be a *binding Rule*, did not *acquiesce* therein, but did *refuse* the Payment of the *Ship-mony*, and did endeavour to defend this their *refusal* by a due and legal way of Procefs, and particularly Mr. *John Hamden*. And the Business was brought to an Issue, and to a publique Tryal in the *Exchequer-Chamber*, which is the

the highest and supremest Judicature (under the Parliament) which the Kingdom of *England* knoweth in point of Law; for it is a Court composed of all the Judges of the several Tribunals, for the ending of such difficult and dubious Cases, as have not been formerly over-ruled, or wherein there is found a difference in Opinion amongst the Judges themselves; And herein the Counsell on both sides, whether the Case be betwixt Party and Party, or the King and Subject, do not only *plead*, but *argue* the Case in Law, and the Judges do commonly before they give Sentence, *argue* themselves the Case, in point of the learning of the Law, All which solemnities passed in this Case, without any interruption by the King; And after divers daies *hearing* and *arguing*, Iudgment passed for the King by Plurality of Votes, for the fewer Votes are involved in the Iudgment of the Major part, as there is a Necessity they should be in all Counsells and Iudicatures, otherwise Controversies could not be ended, unless there were an unanimous Agreement in all that had Votes, which seldom happeneth. But in this Case three parts of four Agreed in the Iudgment for the King; So that if the Judges have erred now in Iudicature, being sworn to *do equal Justice betwixt the King and the Subject*, as they did before in their Advice unto the King, being sworn to *Counsell him faithfully*, the greater is their fault and Offence; But I must confesse I am not able to set out the Kings Transgression.

This Case yet passed further, For it being brought into the Parliament by way of Grievance, the Iudgement was not only *reversed*, all Records *burnt*, and all Courses *given way* unto by the King, which the Houses themselves could think on, That no such Excesse might be attempted again in future times: But the *Lord Keeper* and the *Judges* were (without any Interposition of the King) left unto the Justice of the Parliament, And the *Lord Keeper* and divers of them, were by the House of Commons impeached of *high Treason*; So the King *having no hand* in the letting it on foot, nor in the erroneous Iudgement, nor *having protected* the Parties culpable from Punishment, But the Grievance being *redressed*, and sufficient Caution and Provision assented unto by the

King, for the *preventing* of the like for the future, I could not deduce from hence any Argument of the Kings intention to *subvert the Law*, or of any justifiable ground of *taking arms against him*.

The fault of Monopolies, not to be attributed to the King, but to evil Ministers and Referrees.

And what is said in this Case of the *Ship-mony* doth likewise hold in the Cases of *Monopolies*, which are alwaies suggested to be for the *good* of the Subject, as well as *legal* and *beneficial* to the King, who never *gravates* any of them without *Reference*; In point of *Conveniency* or *Disadvantage* to the Subject, they are usually referred to some of his privy-Counsell, In point of Law, to some of his learned Countell, In point of his *Benefit*, to some Officers of his Revenew, Who if they have *erred*, or were *corrupted*, and the King by their *ill Advice* drawn to pass any *unfit* or *illegal* thing, I have known the Parliament for the space of these forty years address themselves by *Petition* unto the King for *Redress*, but unto the Referrees for the *Fault*, and the Causers of the Grievances. And if they could get the said Grievances *redressed*, and the Referrees *brought to punishment*, they alwaies esteemed it so gracious a Proceeding from the King towards them, that usually it was acknowledged with the return of some Gift or Supply: But that any Argument should be deduced from thence, of any Intention in the King to *subvert the Laws*, I never knew it, Neither have I known that the King hath ever proceeded in matters of this kind, but in the manner here set down. And in this Parliament all Projects and Monopolies were put down, and all men that either had a Hand or Interest in them, (unless it were such as the House of Commons thought fit, for Causes known unto themselves to pass by) were left unto the Justice of the Parliament, without the Kings Protecting or Interposing for any one of them.

CH'AP. VIII.

A Vindication of the King against that false and injurious Aspersions of unsettledness in his Religion.

THe second main and important point that hath been made use of to the Kings Disadvantage, and by which the

the Hearts of the People have been most alienated from him was chiefly by ill informed Ministers in the Pulpit, who have most untruly suggested an unfirmness and unsettledness in the King in point of his Religion, and an inclination in him to overthrow the *true reformed Protestant Religion* established by the Laws of the Kingdom, and to introduce *Popery*. This I must confess was so far from planting in me any thing to the Kings Prejudice, That by so much the more it confirmed me in my Duty and Affection towards the King, by how much of mine own knowledge this wicked Aspersi-
 on was *false and injurious*: For in that point of the Kings Religion, few men living had the Cause, or could have the means to be so perfectly informed of it as my self. For besides that from his Youth upward I had been an eye-witness of his *Education*, being in the King his Fathers time admitted as a Gentleman of his Bed-chamber, I was for divers years employed in the Treaty of a Marriage for him, with a *Princess*, of a differing Religion, And was to that purpose his Fathers Ambassador in *Spain*, when the King (then Prince) arrived there in Person, And it is true that the *Spaniards* had conceived great hopes of his, becoming a *Romish Catholique* (wherein there wanted not encouragement both from divers in *England* and from some about him) and for the effecting of it, there was no industry omitted by them; but the learnedst men in *Spain* were employed to satisfy him; And he was by *Artifice* brought to set a Conference with the said Divines upon Terms of great Disadvantage: For one *Wadsworth* that had been an *English* Minister, and was then become a *Romish Catholique*, was put upon him for his Interpreter, neither had he the Assistance of any learned man with him: Yet gave he so good an Account of his own Religion, and answered so pertinently the Objections of the others, as was much beyond the expectation of all that were present at the said Conference. But seeing himself still pressed in that kind, Although the King of *Spain* assured him, that with this one thing all difficulties were overcome, and that he would sign him a Blank in all things else; yet not to entertain them with any further hopes, he positively declared

his Resolution to remain unremoveable in his own Religion; and would afterwards admit of no more Conferences in that kind. And certainly, if any earthly consideration could have been prevalent with him, he had then such Motives as might have wrought upon him. For besides the Disgrace of failing in his first Enterprize, (especially an Enterprize of Love and in his own Person) the *Princess* was of that Merit, and her Value of him such, And his satisfaction of her Virtue, and his Affection to her Person so great, that nothing but *point of Religion* could have made him leave her behind him: For it was declared unto him that in Case he would conform himself in *point of Religion*, no *Dispensation from the Pope* would be then needfull, but the Mariage should be consummate without any further expectation from *Rome*, as soon as he should desire it.

But he thereupon declared that he would rather expect the *Dispensation*, and resolved to imploy his indeavours that way, and so presently sent one Mr. *Andrews* (a Servant of his to *Rome*, to cause Mr. *George Gage* (that was then there soliciting of the *Dispensation*) to procure the dispatch thereof with all possible diligence, and Letters were written unto him by the Princes Order to desire him, that if there were at *Rome* any Opinion of the Princes becomming a *Roman Catholique*, and upon hope thereof any Retardment of the granting the *Dispensation*, he should undeceive them in that point, and press the *Dispensation* upon the *Articles of Religion* agreed upon; The Prince was then moved by the *Spanish Ministers* to write unto the *Pope* in answer of some Letters which the *Pope* had sent unto him, and to move him for the granting of the *Dispensation*, and the Letters were brought ready drawn unto him, and some passages there were, from which some hope might be gathered, that in time, when it might be thought more seasonable than at the present, (lest it might be thought he had changed his Religion for a Wife) he would not be unwilling to receive further satisfaction in the *Catholique Religion*; all which he strook out, and wrote only a *Letter of Civility*, such a one as he thought fit to write to one, from whom he was to receive
favour

favour in a Business that he most desired, and without whom there was no possibility of obtaining it, unless he would have conformed himself in *point of Religion*, which he being resolved not to do, he thought it fit to apply himself unto the *Pope* by all fair and amiable means, and particularly in promising not to be *severe* against those of his Religion, thereby to facilitate with the *Pope* the granting of the *Dispensation*: All which Diligences he might have excused by his *Conformity*; for then no *Dispensation* would have been needfull, And hereby no further hope remaining in the Court of *Spain* or at *Rome* of his altering his Religion, the *Dispensation* was granted upon the *Articles formerly agreed on in point of Religion*. These Letters have been published and translated into several Languages, which though I cannot say corruptly, yet strained as much as might be to his disadvantage. And it is probable that the like Letters of Compliance to the *Pope* may have been procured in the Treaty of the Match with *France*, wherein the *Popes Dispensation* was likewise held necessary: But all are Arguments of the Kings firmness in his Religion, when he would rather undergo the trouble and delay of the *Dispensation*, than by his *Conformity* to have effected what he desired without any difficulty or further hazard; and this hath been fully confirmed ever since, by his profession and living in the *Reformed Religion established in the Church of England*, from which no man can say with truth, that he hath prevaricated in the least title.

Besides this great proof of his firmness and settledness in his Religion, his constant and daily Practice both in Publicque and Private in the exercise of his Devotions, may and ought to give satisfaction to all that consider him without prejudice; For his resorting twice every day to Publicque Prayers, and twice a week at least to Sermons, and his frequent receiving of the Holy Sacrament, is publicly known unto all; but his private Devotions to those only that are of nearer Attendance about his Person, who well know that he never faileth morning nor evening to retire himself to his private Prayers, and upon Occasions in the day time besides, he shutteth up himself to his Devotions; Inasmuch

that it is known, that upon particular Causes, he hath constituted to himself some Fasts, with that secrecy, that those nearest about him have gotten no knowledge of it, but by his *Abstinence*, for God hath given him so good a Health, that he neither needeth, nor otherwise useth to forbear Meals. It is likewise well known that he hath Composed excellent *Prayers*, which he hath caused to be used suitable to the Occasions, as particularly, for the good success of the *Treaty at Uxbridge*.

Further, I may testifie, and do it in the presence of God, that in Conference with me of great and private Trust concerning his *present sad Condition*, he hath told me, that although he could not but be sensible of his own Distreis, of that of the *Queen*, and of his *Children*, the *Calamity* of the Kingdom, and very particularly of his *Friends*, likely to be destroyed for their fidelity unto him: yet that which most afflicted him, was the *Apprehension of the Ruine and Destruction of the Church of England, and of the true Protestant Religion*, which he conceived had the least to be mended in it, and most both in *Dollrine* and *Discipline*) agreeing with the Primitive Times of any Church he knew in the World; And I am of belief, that it will be found of much difficulty to pull from him this Opinion, unless his Conscience and Iudgement shall be convinced by some such learned and unanswerable Arguments as he hath not yet known: For although it be very probable that *temporal regards* may make him condescend unto *great inconveniences* and *great lessnings*; yet if I much mistake him not, that have known him many years, no sufferings or Dangers, nor other worldly Considerations whatsoever, will be of Power to cause him to make *Shipwrack* of his Conscience.

And although it be very true, that the *Queen* his Wife be most dear unto him, and in all other things of greatest Power with him, yet in matter of *Religion*, his Resolution to *live* in it, and his Ability to *defend* it, was so well known unto Her, and to all about her, that as they could not but think it bootless to Attempt any thing in that kind, so they knew they could not essay it without Offence.

And

And although he hath alwaies indeavoured to breed up the Prince his Son in great Duty and Reverence to the Queen his Mother, with a strict command unto him to be obedient to her in all things; yet it hath alwaies been with this Restriction, *Except it be in point of Religion*, And upon my own knowledge I dare and do deliver this for a positive Truth.

So likewise the *marrying* of his eldest Daughter to a Protestant Prince (though not of the Rank of Kings) may be judged as a great Argument of his love to the Reformed Religion. Besides; in the beginning of these troubles, knowing this malicious suggestion cast upon him, he set forth a publick Manifest unto the Protestant Churches to vindicate himself from that scandal, and to assure the World of his Constancy and Resolution to live and die in the Reformed Religion.

And as for his Piety in this his Profession, the Scripture saith, *Shew me thy Faith by thy Works*, And what greater Argument of Religion and Piety can there be to man who cannot search into the Heart, (to God that only belongeth) than a temperate, sober, good Life and Conversation. What blood in his Reign hath been sacrificed to his Wrath or Revenge? What Consecrations have enriched his Treasure? What noble Family hath been dishonored by his Lust? What Encouragement hath Vice, Excess, or Licentiousness received from his Example? Nay, I am perswaded, that it will much trouble his Enemies, yea Malice it self, to find out the Vice wherewith to reproach his Life: yet how many *Shimei's* have reviled the Lords Anointed, of whom we are taught not to speak ill in our Bed-chambers? And when Cause of speaking ill against him hath been wanting, they have set him up as a *But* before them for their scurrilous *Wiss*, *Libels*, and *Hue and Cries*, &c. I am far from charging the Houses for having a hand in these low and unworthy things, only I shall say, that it is possible for private Errors to become publique Faults, *non Committendo, sed non Castigando*. It was *Eliss* Case, and Gods Judgement followed it.

Besides this certain knowledge that I had of the Kings *settledness* in his Religion; I was far from being satisfied in my Conscience (that if the King should have changed his

A Princes Religion ought not to be a ground of Rebellion or disobedience.

Re-

Religion and become a Papist) it should have been lawfull to take Arms against him. For (as *Moulins* above saith, in the name of the Church of France) *We ought not from the Religion of our Princes, to take occasion of disobedience, making Piety the Match whereby to kindle Rebellion, &c.*

And when *Hen. 4.* that great King of France did leave the Communion with the Reformed Churches, and was reconciled to the Church of Rome and conformed himself to the Rights thereof, by going to the Masse, and performing all other Ceremonies, and Worship established by it; yet those of the Reformed Religion in France did not thereupon think it lawfull to withdraw their Obedience, or take Arms against him, but continued to serve him with all faith and Loyalty, And such as made those detestable Assaults, and that Parricide, who committed that horrid and execrable murder upon his Royal Person, took not their Incitements and Encouragements from the avowed Doctrine of the Reformed Churches, but from the writings of some hotter-headed Papists, to the great Scandal and Reproach of their Church, And from the Tenents of our new Puritan Doctors, who by those Maxims (wherin they both agree) have (instead of the Eastern Assassimates) brought in on both sides their Enthusiasts, sicly prepared Instruments for Treasons and Murders, by whose hands so many Princes and Kings have fallen, and by whose Doctrine so many States have been involved in Rebellions and Civil Wars. So likewise upon the several Changes of Religion in England under *Hen. 8. Edw. 6. Queen Ma. and Queen Eliz.* The Protestants of the Reformed Religion declared against *h-stile Resistance*, and exhorted to obedience and suffering, and confirmed their Doctrine by their own Martyrdoms, as is before set down. Besides, the Precepts of Scripture (of not resisting the Powers ordained by God over us) were, to command obedience to Princes that were all Heathen, Idolaters, and Persecutors of Gods Church. Our Saviours Precept was, *To give unto Caesar what belonged unto Caesar*, and what St. Paul and the Apostles injoyn, was towards Nero. Neither did the Christians take Arms against Julian notwithstanding his Apostacy, but continued to serve him,

Duke of Guise killed by Pul-trot.

Hen. 3. King of Fr. by Jacques Clement.

Hen. 4. King of Fr. by Ravaillac.

The Prince of Orange by Balthez. Girard.

The D. of Buckingham by Execution.

him, and to fight against his Enemies with fidelity and courage. And I conceive it is the general received Opinion of all moderate Christians, That as Religion *ought not*, or (to speak more properly) *cannot* (though Dissimulation and Hypocrosie may) be planted by force so Subjects *may not* withdraw their civil and natural Allegiance due to their Kings upon any colour or pretext of Religion : For as no private man doth forfeit his Inheritance or free-hold, by *Impiety* or *Atheism*, (although he may forfeit his Soul) unless he commit some legal Crime : So a Prince, that holdeth his Crown by unquestionable Right of Succession, cannot forfeit his Temporal Inheritance by the erroriousness of his Religion (his Soul must only answer that forfeit) And although some have gone so far as to admit a *Lawfulness* of the Subjects *taking Arms* against their Prince, for the defence and maintenance of their *Laws* and *Religion*, yet no man hath adventured so far, as to allow the *taking Arms* for bringing in of *new Laws* and a *new Religion* contrary to the established, and that by *force*, and without *consent* of their Sovereign, which is the present Case.

The Non-conformists themselves set out a Protest at this place, 1653. very clear in this point. Vide Art. 4. 6. 9. in Ap. pag. 19.

CHAP. IX.

Shewing the War not to have been begun by the King, but that he condescended, to all things that could in reason be demanded of him for the preventing of it.

THere is yet one further Objection, wherewith I have heard some indeavour to countenance and justify their taking Arms against the King, which was, That he first made War against his Parliament, meaning by force to introduce an Arbitrary Power in Church and Common Wealth; And that the War on their side was only defensive, and for the maintenance of their Liberties, proprieties, privileges, and Religion.

The steps and progress of this unhappy War are so well known unto me, even from the first misunderstandings betwixt the King and People, and the improvement of them by Tumults and several Artifices untill they broke out into

Acts of open hostility, that nothing did so much terrifie my Conscience from taking Arms against the King, or more confirmed me in my Duty of adhering unto him, than the certain and infallible knowledge I had of the Kings hearty and unfeigned Desires and Indeavours to have prevented this War, and to that end to have done, and was ready to do all things that had been or should be with justice or reason propounded unto him for the satisfaction of his Parliament, which I conceive to all unpreoccupied Judgments will be easily most apparent. when it shall be considered how many things he hath done (besides the easing of just grievances whereunto he is indeed obliged) which were meerly Acts of Grace, and which if he had denied, he should have done no wrong, And for the doing whereof, the wit of man can find no other reason or inducement, but his desire to satisfy his Parliament, and the keeping of things from extremities: For besides the giving way to the putting down of the Court of Star-chamber, the High Commission, and the regulating of his Council-Table; many other things he hath done, which some Kings would rather have adventured a War, than have parted with any of them, As the consenting to have his Privy-Council (that had been sworn to secrecy) to be examined upon Oath concerning those things that had passed in his Presence in his most secret Cabinet Council, The giving his Assent in such conjuncture of times to the taking away the Bishops Votes in Parliament, And the divesting of himself of the Power to dissolve the Parliament; notwithstanding that the evil Consequences that might happen to him thereby, were represented unto him in my hearing. And I conceive, that no man will be so partial but they do beleeve, that howsoever the King might be satisfied in point of Conscience by the Bishops and Judges and the joint authority of both Houses, for giving his Assent to the passing of the Bill for my Lord of Straffords Attain-dure; yet no man but beleeveth he would have saved his Life at a great Ransom: But hoping therby to have allayed the rage of his people, aswell as to have given full satisfaction to his Houses, with a sad and afflicted heart he signed the War-rant for the Earls execution. For he was then made beleeve, that

The King caused Pr. Charles (his Son and Heir) to become a Suter unto the Houses for the saving the Earls life, who came in person and propounded it as the first Request he had ever made unto them, but could not obtain it.

that with his *giving way* to his death, and his *consenting* to the Bill for not *adjourning* or *dissolving* of the Parliament, but with the Concurrence of the Houses, all misunderstandings betwixt him and his Parliament would be removed, and all things return to a calm and orderly way of Proceeding. Now if the King had had any secret Intention of *making of a War*, would he have done so many things so prejudicial to himself, and so against his heart, only for the preventing of it? and although his hopes of a quiet settlement by the *passing* of these two Bills failed him, he yet gave not over the doing of all further things which he thought might *renew* a right understanding betwixt him and the Houses.

So likewise when that *unhappy* and *unseasonable* Act of his going to the House of Commons in Person happened, he endeavoured to *redeem* it with such Acts of *acknowledgement*, *submission*, nay I may say *asking forgiveness*, as were never done by any King unto his Subjects.

So likewise in the particular of his Attorneys accusing of the Lord *Kimbolton* and the *five Members*, notwithstanding he had a President for it in his own time of Sir *Robert Heath* his then Attorneys impeaching of my self of *High Treason*, which Impeachment was received and admitted of by the House of Peers, and Arraignment and due process of Law, was by the said House ordered and awarded thereupon, yet, the King (finding the Houses therewith displeased) did not only command prosecution to be withdrawn, but left his Attorney to the Justice of the Parliament; And I conceive, that it will be acknowledged by all Laws and Religions, That the very *excesses* and *errors* of Sovereign Princes, if *reparation* and *satisfaction* may be obtained by *Petition* and *Remonstrance*, (as in these Cases they have been) Recourse ought not to be had by Subjects, to *Arms* or *Hostile Resistance*; and I am deceived if this be not also the Opinion of the severest of our new Doctors.

Where *wrongs* are done, if the party offending shall upon demand make *reparation* and give *satisfaction* to the party offended, and yet he shall notwithstanding make War, it is He that is the Aggressor & that maketh the offensive War, *Melior*

causa ad partem poenitentem transit, And the party first offending, by his penitency and satisfaction, brings over the Right and Iustice to his Cause: and if this be betwixt Independent States, betwixt whom such as write *de Iure Belli*, say a legitimate War can only be, (for (War being defined to be *publicorum Armorum iusta contentio*) Subjects are not allowed as lawfull Enemies opposed to their Sovereign for want of supreme and publique Authority) How much more ought such Acknowledgment and Reparations (as have before been set down) have satisfied Subjects in the behalf of their King, so far humbling of himself, as certainly would have pacified a *modest Conqueror*.

After the King had found himself disappointed of his expectation, and that by his former *yieldings* and *compliances* the misunderstandings were little *allayed*, but greater appearances grew every day than other of unquietness and troubles, And that he had thought fit to withdraw himself from London for his *safety*, and the avoiding of Affronts, which he had cause to fear; (for that the five Members were the next day by the armed Train'd-bands of the City in martial manner to be brought to *Westminster*, and to pass by the *Kings Palace*) Yet so desirous was the King to sweeten things again, that (upon great instance) he passed the Bill for *debarring* the Bishops their Seats and Votes in Parliament, upon hopes that were given (with no small Assurance,) that upon gratifying the Houses therein, all things would speedily be put into a way of Accomodation.

I had often heard the King say, That (*besides the Wrong done unto the Bishops, who had as good Right to their Votes in Parliament as any other Peers from the first Original of Parliaments*) he conceived he could not do any Act of greater Prejudice to himself and his Successors, than the passing of that Bill. Yet the desire he had of a *reconciliation* with his Parliament, overweighed all other Considerations and Interests whatsoever, And he gave his Royal assent unto the Bill; But instead of that effect which the King expected thereby, it produced the 19 Propositions of *Grocers Hall* before mentioned; Whereupon although the King gave no negative Answer, yet

yet he put on a Resolution to make no further Answer to any new Propositions: But his Request to the Houses was, *That they would set down together all such means as would give them satisfaction, wherunto they should receive a gracious and satisfactory Answer to all they could justly or reasonably demand;* But this was declared to be a breach of privileges, to restrain the Proposals of the Houses either in matter or form. The King on the other side thought, that whatsoever he had formerly done had served only to strip himself of his known Rights, but had no way advanced a general accommodation, And so for the future, betook himself to *Declarations and Protestations* instead of *Answers*, wherein he proffer'd to *concur* in all things they should desire for the settling of all Liberties and Immunities of the Subject, either for the Propriety of their Goods, or Liberty of their Persons, which they either had received from his Ancestors, or which by himself had been granted unto them. And if there did yet remain any thing of Grace, for the *good and comfort* of the Subject, he would willingly hearken unto all their reasonable Propositions. And for the settling of the *true Protestant Religion*, he most earnestly recommended the Care thereof unto them, wherein they should have his *Concurrence and assistance*. The Rule of his Government he protested should be the settled Laws of the Kingdom; And for the Indemnity and Comfort of the Subject, he offered a more ample and General Pardon than had been granted by any of his Predecessors, and for the performance of all he had promised, (besides solemn Oaths and Execrations whereby he bound himself) *he desired God only so to bless and prosper him and his Posterity, as he should faithfully perform the same.* And further, for the greater securing of what should be agreed and settled, he gave such voluntary security, as I conceive was never before demanded, nor by any King offered to his Subjects; That in the Case he failed in performance, or should do contrary to that which he had promised or agreed, He acquitted and freed his Subjects of their Obedience.

In Appendix
pag. 1.

And this great desire of the Kings to have purchased *Reconciliation* with the Houses, will appear to have been known to me, and to have been so beleaved by me, by what I spake in the House of Peers the 20 of *May* 1642. and was published in print; most of this being but a repetition of what I then said, as will appear by the said Speech hereunto annexed.

Besides the above specified Reasons of the Kings desiring *Peace*, It could not be supposed, that in humane prudence the King could desire a War, being altogether unfurnished of *men, money and ammunition*, and the contrary party provided of all, by the being seized of his Forts, his Magazines, his Navy, his Rents, the Renew of his Crown, and of the powerfull and rich City of *London*, and of the perverted Affections of his People. He was fain at his return from *Dover* (whither he had accompanied the *Queen* when she passed into *Holland*) to go from place to place, as to *Theobalds*, and to *Newmarket*, lingering up and down in hope still of some Overture of Accommodation, and many Motions tending thereunto, were made by my self and other the Kings Servants that stayed behind him with the Parliament; But they were not then thought seasonable, and wrought little effect, and the King having lost all hopes in that kind, held it fit to retire himself further from danger, (as he conceived) and so went unto *York* with a very mean Equipage and a slender Attendance of not above 30 or 40 Persons. It is true, that many of the Nobility and Gentry repaired thither unto him, shewing great Affection and Resolution to follow him in all Fortune; and Indeavours were used that the King might be put into the best posture of Defence that was possible, but ever with a desire that those small Forces might rather countenance some Treaty or Overture for Accommodation, than that there was any belief that those Forces were fit to carry through a War. And to that purpose the Earls of *Southampton* and *Dorset* were sent unto the Parliament with new Overtures from *Nottingham*. But nothing would be heard untill the King had first taken down his Standard, and laid down Arms, which the King understood to be a total submission and yielding

ing of himself up, seeing my Lord of Essex came forth, and within few daies march of him, with a great and powerfull Army, He himself having by Sr. Jacob Aspleys Certificate, not above 700 foot, whereof there were not above 400 armed, and 900 foot of Colonell Bellasis at Newark, most of them without Arms, An Equipage certainly not to have incouraged the King unto a War, if it could have been avoided; But such was Gods will for the punishment of the Nation.

But the Kings Forces indeed unexpectedly increased, by which the War hath been continued to the Destruction of the Kingdom, and more particularly of the Kings Party; but later by much than could have been expected by any foreseeing man: and neither the King, nor any rational man with him, but would have accepted and sought an *Accommodation*, though with great loss and prejudice. So that to make the King the first Aggressor, and beginner of an Offensive War, and the Houses to have taken only defensive Arms, I could never understand it, nor know what it was they could pretend to defend; Since there was no wrong left unredressed, nor any thing that they could have pretence or colour to demand, that was not offered. Many things undeniably the Kings were withheld from him, and more daily seized, But I conceive no one thing can be instanced, wherein the King hath detained from them any Right, to which they laid Claim. But if the making of *Ordinances* (without the King) of equal Authority with *Acts of Parliament*, to which the Royal Assent had passed; The keeping in their hands the Militia, Forts, and Navy, exclusively to the King; The altering of Church-Government established by Law, without the Kings Consent; The making a new Great Seal; The *proscribing* of the Kings loyal Friends and Servants, to loss of life and estates without pardon or mercy, before either *Summons*, *Trial*, or *Conviction*; The taking to themselves the sole Power of *pardoning* and *disposing* of *Consecrations*; If the setting unto sale the Lands and Revenue of the Church, (for so many hundreds of years appropriated unto it) by their *single Arbitrary Power*, without the Kings

Con-

A.
The Right of
all these speci-
fied particulars
from the Let-
ter A. to the
Letter B. are
fully shown to
belong unto the
Kings, and that
the Houses can
have no colour
of pretence un-
to them. In
app. pag. 20.

Consent, who is Founder of all the Bishopricks; and which he was sworn to preserve; If the *abolishing* of the Court of Wards, and *discharging* the Subjects of their Tenures, and so consequently of their service to the Crown; If the detaining of the Kings Children from him, the breeding of them, and the future Mariage of them, belongeth unto them; If the Power of injoining new Oaths upon the Subject, contrary to all Law, and without the King; If the making what they please Treason, *ex plenitudine potestatis*, s^the ^{*}harbouring of the King, &c. notwithstanding that the Law hath determined what shall be adjudged Treason and nothing else; If the sending to, and treating with forein Princes, of *War* and *Peace*; or the nominating of Judges, Sheriffs, and the Officers of the Crown, and many things of this kind; If they lay Claim unto these as their Right; I must confesse I have not known any satisfaction offered unto them by the King: Only in the point of his Servants, he hath alwaies protested, that he would protect no man whatsoever, so that he might be brought to a Legal Tryal, according to the due Course of Law, which he is bound to see afforded to all his Subjects. But for the rest of the above specified particulars, I do not know that the King hath indeavoured their satisfaction: Neither can it be supposed by any rational man, that they will ground their defensive War upon any Claim they will make unto them. For although *de facto* in the Contestation of War, they have seized and possessed themselves of them, yet they will not pretend, that they have right unto them *de jure*, And it is *Right* that constitutes the *Justice* or *Unjustice* of the entring into a War; *Success* protecteth, and may establish for the future, but cannot rectifie or make good an *unjust beginning*. And it must be their future proceeding^s, by which the most probable Iudgement can be made of the former intentions. For now that they have overcome all oppositions, if they shall return to a peaceable legal Settlement, and leave to use *Arbitrary Government*, which they may pretend they have been inforced unto, during an *Actual War*; and shall only retain their just *Liberties* and *Privileges*, with such additions and enlargements of

*Die Lune 4
Maii 1646.
Ordered that
whosoever
should harbour
or conceal the
King, and not
reveal it, &c.
should be pro-
ceeded against
as a Traitor,
and die with-
out mercy.

B.

Gar-

Graces, and Immunities, as the King, (being free, and without constraint) shall be contented to grant, together with prudent Cautions for their own Indemnity, and Security for the future (which in Cases of this Nature, must ever be supposed that rational Men will endeavour, and successfull men that have the Power in their hands, will expect) if they will let the Subject have the *comfort* and *security* of a general Pardon, and an Act of Oblivion; not force the consciences of their fellow subjects, by new Oaths, which they themselves have acknowledged to be *contrary to the Law and against the Petition of Right*; If they will endeavour really, the settlement of Religion, by a moderate Reformation, and not by a total ruine of the *most Orthodox and flourishing Church of Europe*; and so restore the King to what is undeniably his, and make the known Law the Rule of Government, These will be the strongest Arguments, that *Defence* was rather intended, than a *Conquest*. But if Armies shall be retained when there are no Enemies; and by them an *Arbitrary Power* held up over mens Lives, Liberties, and Estates; and the King kept in the nature of a subdued and useless Person; little will be believed of any Intention of taking only *defensive Arms*.

CHAP. X.

Shewing a particular Tye of Gratitude, by the Generousnesse and Reconcilablenesse of the Kings Disposition.

There was yet a farther Tye of Gratitude put upon me, by the Generousnesse, and Reconcilablenesse of the Kings Disposition: (a virtue ever to be wished, but not often found in offended Princes) For I having been so unhappy, as to have fallen very highly into his Disfavour, and to have remained many years under a Cloud of his heavy Displeasure: yet not long before the beginning of this Parliament, having the opportunity of access unto him, at the great Counsel at York, And then being employed as *Prolocutor* in the Commis-

on for the Treaty with the *Scots* at *Rippon* for a *Cessation*, and afterwards for the Peace at *London*; he was pleased to receive so good satisfaction concerning me, and all my former proceedings, that he did *graciously* pass by, whatsoever offence he had conceived against me, and did not only call me to his Council-Table (where, in regard of my many years service under his Father, he might have judged me usefull unto his service) but out of a Confidence and Trust (which to fail in even amongst Heathens, would be held odious) admitted me to the place of the nearest Attendance about his Person, as a *Gentleman of his Bed-chamber*, who (besides the Privileges of Access in all places) have the Honor to sleep by him in the night in his Chamber, and to be trusted alone with the *safety* of his Person, as I have often been. And this place is accompanied with a particular Oath of distinct services, Of attending upon his Person, of not Acting or Concealing any thing to his Prejudice, and other things of particular service, more than other subjects do swear unto.

And I must confess, that if all the above alleged Reasons had been laid aside, and that there had been no other Tye, but this new Obligation of the Kings *Reconciliation*, and of his trusting and confiding in me, knowing him to be so free, not only from all things that might justify the *taking Arms against him*, but from all things of doing wrong, or oppression, (if other mens errors or corruptions, were not put upon his Score) That if all the misfortunes that have befallen me and my Family, had been foreseen by me, and might have been prevented by my forsaking of my Master, only because he was in distress; I would rather have embraced this poor and exiled condition, than to have lived in any Estate of plenty whatsoever, reproaching to my self daily and hourly my Infidelity and Ingratitude.

CHAP. XI.

A Brief Summary of the Reasons formerly set down for the not taking Arms against the King.

THESE are the Reasons that have reteined me in that Duty, which I conceived my self bound unto towards the King. The sum of them being briefly thus.

1. I understood *Hostile Resistance against the King*, to be expressly prohibited by the word of God, both in the old and new Testament.

2. I should have gone against the Doctrine and Practice of the Primitive Church, and against the present Tenents and Confessions of Faith, of all the Reformed Churches.

3. Admitting the Maxims of those hot-headed men, either *Romanists* or *Protestants*, that have written in favour of Subjects *taking Arms against their Prince* to be true, (as they are false, and condemned by their own Churches respectively) yet in this Case, they could be no Arguments to me; For that their Doctrine and Principles, are in no kind applicable to the present matter in Fact.

4. I should have directly broken all those solemn Oaths which I had so often taken, of Fidelity and Allegiance to the King.

5. I should have gone against the Laws of the Kingdom, by which *to take Arms against the King, or to adhere to his Enemies, &c.* is made *Treason*.

6. I should have been failing in the Obligations of Honor and Gratitude.

7. I should have transgressed against Moral Honesty, and natural Justice, *to have fought against the King*, as an unjust and an irreligious Man, whom I knew to be, in more than an ordinary measure, *Just and Religious*.

So that if I should have broken through all these Duties of Religion, of Oaths, of Loyalty, of Laws, of Gratitude, and

Moral Honesty, by doing presumptuously against my Conscience; how could I but have feared to be made as miserable in the next World; as I should have remained despicable in this?

And howsoever this may be judged a severe Censure, 'Tis only against my self, as I say in the beginning of this Discourse, *Men may upon differing Principles go differing waies;* And I cannot be so uncharitable, as to think so many *grave, learned, and noble* Personages, would break through so many plain Duties, under which they had formerly lived, And unto which they had not only sworn but conformed themselves; But that they had either *found out* or had had *revealed* unto them, some such things for the satisfaction of their Consciences, as God hath not yet been pleased I should attain unto. If I may see them in writing, I shall peruse them willingly; And if I shall find in them, but so much Reason, as may induce me to believe, that upon their own Principles, and not by Fear; Interests; or likelihood of prevailing; their Consciences may have been perswaded that way, Although I disapprove their said Principles, and still retain mine own, yet I shall say, *Bona intentione mali sunt;* which though it doth not justify an evil Action, yet it doth in some measure *excuse* and *lessen* the Offence. St. Paul was a great * Persecutor of the Church, But because he did it out of abundance of Zeal, * *He obtained Pardon, for that he did it ignorantly:* Our Saviour saith to his Disciples, *The time will come that whosoever kill:th you will think they do God good service.* And those very Murderers would have been in much better Case than I should have been, that should have sinned *presumptuously*, and against the persuasion of mine own Conscience; whereas they had the Glory of God for their end, though upon false Principles. And certainly, presumptuous sins, being as it were a *despising* of God, are of greater Provocation; And I shall recommend unto those whose Consciences have led them another way, that Imborn, Charitable principle of the Law of Nature, as well as of the Gospel, *Quod tibi fieri non vis, alteri ne feceris;* Whatsoever ye would that men should do you, do ye even so unto them, And if Conscience shal be a discharge or

* Phil. 3. v. 6.

* 1 Tim. I v.

13.

John 16. 2.

Matth. 7. 12.

superseas unto them, against known Duties, against Oaths, and Established Laws, Let *Conscience* in me, grounded upon so many Reasons, as in this Discourse are set down, be likewise pleadable for the doing of those Duties, to which I conceived my self obliged, both by the Law of God and Man, and which hitherto, both they and I have practised.

CHAP. XII.

All the former Reasons applied to the present Case of King Charles; with a positive opinion thereupon.

THESE have been the Motives of settling my Conscience in the Opinion that I shall briefly here set down, deduced from the Principles of this Discourse, which (upon this individual Case) is;

That neither upon pretext of Religion, Personal Vices, Excesses in Government, nor any other Colour or Pretext whatsoever, the Subjects of the Crown of *England* may withdraw their Obedience, or make *Hostile Resistance* to King CHARLES the present King, Being by Right of Inheritance, justly possessed of the Crown; His Title no way depending, either upon his Divine or Moral Vertues; And the said Subjects having received him, and acknowledged him for their *only Supreme Governor*, done him Hommage, and sworn to him Faith and Allegiance absolutely and without Condition.

As for other Kings or Potentates, whether Elective Kingdoms, or Kingdoms that (at the Erection of them) were received by the first King upon Express Covenant, and only with a Conditional Obedience, as is pretended by those of *Aragon* and others: of these I shall not speak. Neither shall I adventure to speak of those *Catholique* Kings and Princes, which acknowledge (in spiritual matters) a Superiour Jurisdiction in the *Pope* over them, (And he pretendeth (as hath been before set down) by necessary Relation and Dependence of the Temporal upon the Spiritual) to have a Temporal

Power over them, *in ordine ad spiritualia*; and hath often put this his Claim in Practice, by accompanying his *spiritual Censure of Excommunication*, with the Sentence of *discharging* Subjects of their *obedience* to their Princes, and so consequently of *deposing* them. Herewith I shall not meddle, None of these cases being applicable to the present Case of King CHARLES, who is no *Elective King*, but holdeth his Crown by an unquestionable Title of Succession, derived to him by Descent from his Ancestors, for the space of more than six hundred years: Neither was there ever any Pact or Condition with him, or any of his Ancestors of *forfeiture*, in Case of *misgovernment* or *wickedness*; And breach of Covenants forfeiteth not an Ordinary Estate, unless there be an express Clause and Condition of *forfeiture*: which in this Case, neither was, nor ever can be pretended. It is true, that his Ancestors and himself, have limited and restrained their Legal Right, by many Concessions and Laws in some Cases, as, The making of Laws without Consent of Peers and People, and the levying of Money, &c. which he cannot *violate* without great Injustice, as shall be after shewn: But no such Pact or Covenant can be produced, or pretended, whereby upon *breach*, he *forfeiteth* his Sovereignty, or maketh it justifiable for his Subjects to take *Arms* against him, or to *infix* *Punishments* upon his Person, either by *deposing*, *Death*, or *Imprisonment*.

The Case likewise of *Catholique Princes* no way concerneth him, who acknowledgeth in the *Pope*, no such Superior Jurisdiction: Neither if he did, are there any such Ecclesiastical Censures issued out against him, as might warrant so much as his Catholique Subjects to take arms against him. So that whatsoever Pretences may be in some Cases, concerning such Princes as I have above specified, (wherein I shall not presume to deliver any Opinion) yet in the present Case of King CHARLES, there can be no colourable pretence of *taking arms* against him, or of *deposing* him, which I understand to be, (in effect) when he is *divested* of his just Regal Power; Or of the *imprisoning* of his person, which I understand to be, not only when he is in Bonds, or lockt up in

a Room; but when the liberty of *going*, and the freedom of *speaking* is restrained, to such places or persons as others shall please, and he remain under the Guard of Armed men, not of his own choosing, but imposed upon him by others.

It must be acknowledged, that the Kings of England derive their *Title* and *Right* from *William the Norman*, who although he came in by *Conquest*, yet his Successors (considering that a Right acquired by Force, may likewise be recovered by Force, by those upon whom the forceable Intrusion was made) were pleased by way of pact and stipulation, to limit and qualifie that *Imperium absolutum*, which is acquired by *Conquest*. And the People of England, thereupon did submit themselves to his Government, and became his Subjects and his Liege-men, And thereby was Constituted *Imperium legitimum*, a just and Rightfull Sovereignty; the Kings remaining with Supreme Power, and the People with Common Right, whereby they were freed from the Servitude of *Conquest*, and remained under a free Subjection, whereunto they had by their Consent submitted themselves.

The Kings likewise did recede from *Absolute and Arbitrary Power*, and remained with *Supreme*, but not with *Absolute Empire*.

By *free Subjection*, I understand when a People live under Laws to which they have given a *free Consent*, and not under the meer *Will* of the Prince; And that they retain such a Propriety in that which is their own, that without their Assent or legal forfeiture, it cannot be taken from them; And this is a true difference betwixt a *Free Subject* and a *Slave* or *Servant*. *Quicquid acquirit servus, acquiritur Domino, Liber quod acquirit, acquirit sibi.* Whatsoever a servant getteth, he getteth for his Lord, Whatsoever a Freeman getteth, he getteth for himself. And so although that *Dominion* of all belongeth to the Prince, *Propriety* belongs to every man, *Dominium totius apud Casarem, Proprietas apud singulos.*

The Difference that I understand betwixt a *Supreme*, and *Abso-*

Absolute Empire, is; That in *Absolute Empire*, the Rule of the Peoples Obedience, is only the Sovereigns *Will*. So it is in *Turky*, *Muscovia*, and all such Princes, as retain entire, the Right of *Conquest*; and was in some sort under the *Roman Emperor* after the *Lex Regia* was established by the Peoples Consent; whereby they transferred their entire Right unto the *Emperor*.

Supreme Empire I understand to be, when a King hath a *Supremacy* and *Soveraignty* over all, but his *Absolute Power* is limited and restrained by reciprocal *Pacts*, *Laws*, and *Stipulations* betwixt Prince and People, which is the Case of the Crown of *England*: And to these *Pacts*, the King and People are equally bound, before God and Man; And the King is as much bound to *Iustice*, and to the *protection* of his Subjects, and to the *observance* of the *Laws*, (not only out of Religion, but out of Moral Honesty) as the Subject is to *Obedience*. And he is not only accomptable to God, but his People have just and legal waies to seek *Redress*, wherein he shall do Wrong; notwithstanding that *Axiome* of our Common Law, *That the King can do no Wrong*; which is very false in many senses, and may be very well called *fiction Juris*, a kind of *Metaphysical Fiction*. For Kings may do Wrong, and be as wicked as other men, and may commit Murther, and lye with other mens Wives, and wrongfully take take other mens Estates, which no Fiction of the Law can make not to be *Wrong*, although his Person be exempt from punishment. And that *abstract* Consideration of the King, for his just Power and Office, as it hath been often ill used heretofore in way of Assentation: So there hath been as ill use made of it in these troubles; when the *taking of arms* and the *fighting* against him, was pretended not to be against the King, but against *CHARLES STEWART*. But (to speak in Terms intelligible) a King both may do *Wrong*, and the People may seek their *redress*, in such sort as the Law of the Land alloweth: And the difference betwixt King and Peoples *failing* in their reciprocal Duties, is not but that they do *Wrong* alike, offend God alike, and are both of them liable to be questioned, according to the extent of

* Le Roy ne fait tort, is only to be understood in the ordinary course of justice, which the King administring by his Ministers, and not in Person, it is they that are the wrong doers and not the King, and the subject against them is to seek his Remedy.

the Law, by both their Consents established. The Subjects transgressing the Law, shall be punished according to the quality and measure of their Delicts. *Felony*, by loss of their Goods and Chattels, and by a milder Death, *Treason* by a more severe Death, and Confiscation both of Goods and Inheritance. But hereof they must be convicted *per pares*, by People of their own Condition, and adjudged by a Superiour Jurisdiction, which can be derived only and singly from the King. So that the King not having his Peer, or any of his own Condition, cannot have a legal Tryal; And having no jurisdiction superior to himself, cannot be *adjudged*, or *sentenced* by any. For neither the Extent of the Law, nor any Condition of the Pacts, or Stipulation, do reach to the *punishing* of the Person of the King, or the *forfeiture* of his Dominion over us. It is true, that (in civil things) Tryals may be (and often are) brought against the King; And Kings do give way, That the Iudges be sworn to do *equal Justice* betwixt them and their Subjects. And in point of Oppression and Wrong, we may *Remonstrate* our Grievances, and challenge Redress by our *Petitions*; Which if they be not condescended unto, we may insist upon them as our *right*, and claim them as a *due*, and not as of *grace*; And although we do it by way of *Petition*, that is but a dutifull form of Subjects bringing their Plea against the King, For in other sort he ought not to be impleaded. Besides these Petitions of Right, we may (as it hath been formerly said) *remonstrate*, *enter our Protestations*, and take all those Courses which the Laws allow. Neither ought the King to *take Offence* at these legal Contestations with him, because by his assent unto the Laws, he hath assented unto them: Nay he ought in them to do us *Right*, being bound thereunto by the Law of God, and by his Oath, and by moral Honesty and Justice. But, if he fail in all these Duties, our Jurisdiction reacheth not to his *personal* Punishment; therein, he is *sub nullo, nisi sub Deo*; and the Law stoppeth there, and telleth us, *satis sufficit ei ad poenam, quod Deum habet ultorem*, It will be a sufficient punishment to him, that he hath God for an Avenger. Yet are we not altogether left without remedy, For Kings, although they be Gods *Vice-gere*nts, yet they cannot work as God worketh, saying *Fiat*, and it was done.

K

King

Kings must work by mediate Instruments, And if they Command illegal things, the Executioners of them are responsible, and must make satisfaction to the Parties injured. And therefore the King ought not immediately to imprison, nor in Person to execute any thing, because that in Case of wrong-doing, the Subject would be left without Remedy, in regard the Kings Person is not to be impleaded by Law. I know the usual Objections, *In Case Kings will do that which they ought not to do, and will by their own immediate Warrants, Commit, and be the Personal Actors of the Injurious, or not suffer the Executioners of their illegal Commands to be legally proceeded against; (shall the Subject be left wholly without Remedy, and the People be debarred of the benefit of that Right of Nature in-bred in all Creatures, of self preservation? Yes.* We must be contented with that Condition wherein God hath placed us, and wherein, by our own Consents, and Stipulations of *subjection*, we have placed our selves, and may only right our selves by those means, which by the laws (whereunto we have given our assent) are permitted unto us: Neither is our native Liberty hereby ravish'd from us, but, as we have parted with it, by our own Consent and Agreement, So we cannot resume it, but by those waies which we have reserved in the Stipulations of our *submission*. And besides that, herein there is no Injury, for that *Volenti non fit Injuria*, It would be more hurtfull to mankind if it were otherwise: For there is a necessity, that in all sorts of Governments, as well as in *Monarchy*, there should be an Impunity and Power, somewhere, of not being questioned, else all would presently fall into *Anarchy* and *Confusion*, Neither could there be a final ending of Controversies, if there were not a *Dernier Ressort*, and last *Appeal*, wherein we are bound to *acquiesce*; And this Power must be trusted in some hand, and that must of necessity be, where the Sovereign Power remaineth, else there must be supposed a Superiour Power to that Sovereign Power, and so *in infinitum*, untill we come to some such Power that hath nothing above it, and then that must be trusted, and must be submitted unto, without being accomptable to any but to God, because on earth there can
be

be to it no *Superiour Jurisdiction*. And this Power is in the King of England, in all things except such wherein he himself or his Ancestors, have by Lawes and Stipulations, limited their *Absolute Power*, as hath been above set down; As *enacting or repealing* Laws without his Parliament, *levying* of Moneys, and many other things, wherein He and his Ancestors have *restrained* their Power; And this we are by the Law of God and of th Land bound to *obey*, and not to make any *resistance* but what the Law alloweth us; We must in the rest, have recourse unto God, if our Princes be wicked: Neither may we *mutiny* or *repine* at God, when we have ill Kings, more than when he sendeth Diseases, Plagues, Caterpillers, Blightings or Blasts: For wicked Kings are but Blasting of the People that God is pleased to punish; Neither must we think our Condition worse than that of wicked Kings, (notwithstanding their temporall Impunity) For certainly it is much better both in regard of Punishment in the World to come, and commonly in this. For the next World, As their Sin is greater; So it is declared, that their Punishment shall be greater. *Heare o ye Kings, and understand, &c.* *Because being Ministers of Gods Kingdom, you have not judged aright, nor kept the Law, nor walked after the Counsel of God. Horribly and speedily shall he come upon you for a sharp Judgment shall be to them, that are in high places, For mercy will soon pardon the meaneſt, but mighty men shall be mightily tormented.* Whereas Subjects which suffer with *patience*, because they are so commanded by God, make him their Debtor by their sufferings, and he alwaies payeth faithfully, who saith that *if we suffer with Christ, we shall also reign with him.* And for this World, Their Wickednesse and Oppression, is ever accompanied with those Fears, Distractions, and Horrors of Conscience, which have ever been unseperable from Tyrannies, by which their lives are rendred more uncomfortable than the unhappiest of their Subjects. And for the most part, their ends are as miserable as their lives, For what they *fear*, and by their Tyrannie seek to *prevent*, doth commonly fall upon them: Their People do *Revolt*, and *Rebel*, And although they be never so well *Catechized* in the points of *Obedience*, yet their Natural Inclination to return to Liberty, much

wisd. 6. 2.
2, 3, 4, 5, 6

more to cast off unjust Burthens and Oppressions, is such, that slight and weak Arguments will easily perswade them to that whereunto they are so strongly inclined; and the least pretence of Religion, or colour of Reason, or Lawfulness, countenancing or tolerating the freeing themselves from *Subjection* in any Case, will be more prevalent with them, than the most positive Precept of Gods Word injoining *Obedience*. And if in any Case, *taking of Arms* be admitted, Theirs shall ever be that case. And if the wickedness of their Prince shall be allowed as a ground for *Rebellion*, Their Prince shall ever be the most wicked; And of this, all Ages have produced many examples, and especially these later times through all the Estates of Christendom. And although the Christian churches of all Professions (as before is shew'd) declare against the Doctrine of *Resistance*, Two or Three hot-headed-men writing or preaching, suitable to their Affections & Desires, will prevail against the Authority of all the Churches of Christendom. And wicked Princes will find, that Precepts in this Case will not serve the turn: But it will be in this point of *Resistance*, as *Tacitus* saith of Divinations in *Rome*, which was a wickedness that had been, and ever would be forbidden, yet ever would be retained, *semper vetabitur & semper retinebitur*. And so Princes that will highly oppress; and make their Will, and not the Laws, the Rule of their government (though to resist be a wickedness, and that it is against the Law of God and Man to do it) yet where the wrongs are great, and a fair opportunity offered of prevailing, It will be ever done: For that amongst men, there are a Thousand for One, that prefer their own Interests or Inclination, before Duty or Conscience. And certainly a prudent and foreseeing Prince, that will impartially examine things, cannot but expect it should be so; For why should he suppose, that other men will be more *honest*, or more *religious* than himself? And when he breaketh through all the Bonds and Tyes of Oaths, of Divine Precepts, and Moral Justice, only to stretch and extend his Power and Greatness; why should he not expect, that Subjects should make as bold to transgress the same Duties, in hope of recovering *Liberty*, with the false shew whereof, people are apter to be further transported than by any earthly desire whatsoever? Neither will

will the fear of Death or Danger restrain them, because they will not attempt, untill opportunity make them hopefull of prevailing, and then they conceive by Power to provide for their own Impunities,

But besides this proness in people to be easily led, & perswaded into *Rebellion*, under the false and specious shew of recovering *liberty*, The great Monarchs & Princes of Christendom, have been (in great part) the somentors & upholders of *Rebellion*, and their Doctors have not so much by their *preaching*, and *writing* beaten it down, as the Princes themselves have by their *Examples* and *Actions* given encouragement unto it; for although I shall ever speak with Reverence of Princes and their Actions, yet I shall hope that the humble representation of this truth will receive a fair interpretation. For it is undeniably true, that in this later Age all the great Monarchies and States of Christendom have been made unhappy by Intestine Wars, which have been fomented (if not contrived and designed) by one Christian Prince against another; every one countenancing and encouraging *Rebellion*, untill it become his own Case, and then he is offended: of this I shall give no particular instances, the Notariety of it is too great, and I fear every State may too easily apply it to what they have done, And it may be feared that the sad Condition of almost all the States of Christendom at this present day, may feel something of Gods Judgements, who hath said; *With what measure ye mete, it shall be measured to you again.* Matt. 7. 12.

And wicked Kings (as they are lure they shall not escape the severe Judgment of God in the next world, (if they do believe the Scripture) So (if they will believe Antient Histories of what hath passed in former times, or their own experience of what they see daily with their eyes, or that they do believe, that God will repay unto them, that which they have either countenanced, or contrived against others) they must expect to have troublefome and uncomfortable lives, accompanied with Hatred, Hazard and Infamy. And if these considerations will not restrain them, yet we must not be wicked because they are so; Neither will God admit of *Recrimination* for our *Excuse*. Our Duty of *not resisting* is *positive*, upon pain of *damnation*, from which no good Success or Prevailing can keep

us, although it may save us from the *Gallows*. Besides this great hazard of our Souls, Moral Prudence should teach us, That a *Civil War* is commonly a *Cure much worse than the Disease*; For no Oppression, nay, no Tyranny bringeth with it half those Miseries and Calamities, which of necessity do ever accompany an *Intestine War*. Wicked Kings may be Cruel, Covetous, and Licentious, But their Oppressions and their Lusts are restrained to some Wickednesses, and to some Persons; But in a War, Rapes, Murthers, Robberies, Sacrileges, and all Impieties break in, and all sorts of People are made miserable, which the poor Kingdom of *England* hath found by sad experience; where within these five years last past, more hath been taken from the Subject, than would have been exacted by Subsidies, Projects, or any unjust Taxes whatsoever, by the worst of Kings in the space of one hundred, And so all other wickednesses proportionably have been increased.

I shall conclude this Discourse with my humble and hearty Prayers to God Almighty, to avert his heavy displeasure from that most unhappy Kingdom, which I have seen the most prosperous and flourishing of all the Kingdoms of *Europe*, And by our own *Dissension*, is now become of all other the most miserable; And so like to continue, unless it shall please God so to dispose the minds both of King and People, that they may really desire and endeavour a just, moderate, & equitable Accommodation; Whereby they and the Kingdom may be again put into the Way of recovering some measure of happiness; It not being to be doubted, but that the many Afflictions which have happened to the King, will adde much of *Wisdom* and *Circumspection* unto his other Virtues. And the publique Calamities that have befallen the Kingdom, and the Distractions that the War hath visibly brought both in Church and Commonwealth, will make the people value and esteem *Peace*, and not so wantonly be again engaged in new Miseries. And although unto me (in regard of mine Age and other Considerations) there remaineth little Hope of ever seeing my Country again. Yet, where or howsoever it shall please God to dispose of me, I shall dye with Comfort, if I may judge it in a probable way of recovering some measure of its antient Happiness and Honor.

*A Speech made by the Right Honorable,
JOHN, Earl of BRISTOL, in
the High Court of Par-
liament,*

MAY 20 1642.

Concerning an Accommodation.

MY LORDS,



Have spoken so often upon the subject of *Accommodation*, with so little acceptance, and with so ill successe, that it was in my Intention not to have made any further estay in this kind; but my zeal to the peace and happines of this Kingdom, and my apprehensions of the near approaching of our unspeakable miseries and calamities, suffer me not to be Master of mine own Resolutions.

Certainly this Kingdom hath at all times many advantages over the other Monarchies of *Europe*. As, of Situation, of plenty of rich commodities, of Power both by Sea and Land: But more particularly at this time, when all our neighbouring States are by their several interests, so involved in War, and with such equality of Power, That there is not much likelihood of their Mastering one another, nor of having their differences easily compounded. And thereby, we being only admitted to all Trades, and to all places: Wealth and Plenty (which follow, where Trade flourisheth) are in a manner cast upon us.

I shall not trouble your Lordships by putting you in mind of the great and noble undertakings of our Ancestors: Nor shall

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I pass higher than the times within mine own remembrance; *Queen Elizabeth* was a Princess disadvantaged by her sex, by her age, and chiefly, by her want of Issue: yet if we shall consider the great effects which were wrought upon most of the States of Christendom by this Nation under her prudent government; (the growth of the Monarchy of *Spain* chiefly by her impeached; The *United Provinces* by her protected; The *French* in their greatest miseries relieved; Most of the Princes of *Germany* kept in high respect & reverence towards her and this Kingdom, and the peace and tranquillity wherein this Kingdom flourished; and which hath been continued down unto us by the peaceable government of King *James* of blessed memory, and of his now Majesty, untill these late unhappy interruptions) We cannot but judge this Nation equally capable with any other, of Honor, Happiness, and Plenty.

Now, if instead of this happy condition, in which we have been, and might be, upon a sober and impartial inquiry we shall find our selves to have been for some few years last past involved in so many troubles and distractions, and at the present to be reduced to the very brink of miseries and calamities; It is high time for us to consider by what means we have been brought into them, and by what means it is most probable we may be brought out of them.

This Kingdom never enjoyed so universal a peace, neither hath it any visible enemy in the whole World either Infidel or Christian: Our Enemies are only of our own house, such as our own dissentions, jealousies, and distractions, have raised up: and certainly, where they are found (especially betwixt a King and his People) no other cause of the unhappiness and misery of a State need to be sought after: For civill discord is a plentifull Source, from whence all miseries and mischiefs flow into a Kingdom.

The Scripture telleth us of the strength of a little City united, and of the instability of a Kingdom divided within it self; So that upon a prudent inquiry, we may assign our own jealousies, and discords, for the chief cause, of our past and present troubles, and of our future fears.

It must be confessed, that by the counsel and conduct of evill
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Ministers, the Subject had cause to think their just liberties invaded; And from thence have our former distempers grown: For it is in the body politick of a Monarchy, as in another Natural body, the health whereof is defined to be, *Partium corporis æqua temperies, an equal temper of the parts*. So likewise, a State is well in health and well disposed, when Sovereign Power and common right are equally ballanced, and kept in an even temper by just and equitable rules.

And truly (My LORDS) by the goodness of His Majesty, and by the prudent endeavour of the Parliament, this State is almost reduced to that equal, and even temper, and our sickness is rather continued out of fancy and conceit (I mean fears and jealousies) than out of any real distemper or defect.

I well remember, that before the beginning of this Parliament, some Noble Lords presented a Petition unto the King, and in that Petition did set down all or most of the Grievances and distempers of the Kingdom, which then occurred to them. To these (as I conceive) the Parliament have procured from his Majesty such redresses as are to their good satisfaction.

Many other things for the ease, security, and comfort of the subject, have been by their great industry, found and propounded, and by his Majesties goodness condescended unto. And now we are come so near the happiness of being the most free and most settled Nation in the Christian world; Our dangers and miseries will grow greater and nearer unto us every day than other, if they be not prevented.

The king on his part offereth to concurre with us in the settling of all the liberties and immunities either of the propriety of our Goods, or liberty of our persons, which we have received from our Ancestors, or which himself hath granted unto us; and what shall yet remain for the good and comfort of his Subjects. He is willing to hearken to all our just and reasonable propositions: and for the establishing of the true Protestant Religion, he woos us to it: And the wisdom and industry of the Parliament hath now put it in a hopeful way.

The rule of his government, he professeth shall be, the Laws of the Kingdom, And for the comforting and securing of us,

he offereth a more large and more general Pardon, than hath been granted by any of his Predecessors.

And truly (My LORDS) This is all that ever was or can be pretended unto by us.

We, on the other side make Profession, That we intend to make his Majesty a *glorious* King, to endeavour to support his Dignity, and to pay unto him that Duty and Obedience, which by our Allegiance, several Oaths, and late Protestations we owe unto him, and to maintain all his just Regalities and Prerogatives, which I conceive to be as much as his Majesty will expect from us.

So that (*My Lords*) we (being both thus reciprocally agreed of that which in the general would make both the King and People happy) shall be most unfortunate, if we shall not bring both Inclinations and Endeavours so to propound and settle particulars, as both King and People may know what will give them mutual Satisfaction, which certainly must be the first Step to the settling a right understanding betwixt them, And in this I should not conceive any great difficulty, if it were once put into a way of preparation. But the greatest difficulty may seem to be, how that which may be settled and agreed upon, may be secured. This is commonly the last point in Treaties betwixt Princes, & of the greatest niceness, But much more betwixt a King and his Subjects, where that Confidence & Belief which should be betwixt them, is once lost: And to speak clearly, I fear that this may be our Case, and herein may consist the chiefest difficulty of Accommodation; For it is much easier to compose differences arising from Reason (yea even from Wrongs) than it is to satisfy Jealousies, which arising out of Diffidence & Distrust, grow and are varied upon every Occasion.

But (*My Lords*) if there be no endeavours to *allay* and *remove* them, they will every day increase and gather strength; Nay they are already grown to that height, and the mutual replies to those direct terms of Opposition, that if we make not a present stop, it is to be feared, it will speedily passe further than *verbal* Contestations.

I observe in some of his Majesties Answers, a Civil War
spo-

spoken of: I confesse it is a word of Horreur to me, who have been an eyewitnels of those unexpressible Calamities, that (in a short time) the most plentiful and flourishing Countries of *Europe* have been brought unto by an *intestine War*.

I further observe, that his Majesty protesteth against the miseries that may ensue by a war, and that he is clear of them. It is true, That a Protestation of that kind is no actual denouncing of War, but it is the very next degree to it, *Flamma admonitio*, as the Civilians term it, *The last admonition*; So that we are upon the very brink of our miseries; It is better keeping out of them, than getting out of them: And in a State, the *Wisdom* of Prevention, is infinitely beyond the *Wisdom* of Remedies. If for the sins of this Nation, these misunderstandings should produce the least Act of Hostility, It is not almost to be believed, how impossible it were to put any stay to our miseries; For a Civil War admits of none of those Conditions, or Quarter, by which Cruelty and Blood are amongst other Enemies kept from Extremities; Nay if it should but so happen (which God of his goodness avert) That mutually Forces, and Armies should be raised, Jealousies and Fears would be so much increased thereby, that an Accommodation would be rendred full of difficulty and length; and the very charge of maintaining them, (whilst first a Cessation of Arms, and then a general Accommodation were in treating) the Weaith of the Kingdom would be consumed.

And of this we had lately a costly Example; for in those unhappy Troubles betwixt us and *Scotland*, after there was a stop made to any further Acts of Hostility, and a desire of Peace expressed on both sides, Commissioners nominated, and all the Articles propounded; yet the keeping of the Armies together for our several Securities (whilst the Cessation at *Rippon*, and the Peace at *London* where in treating) cost this Kingdom not much lesse than a million of pounds. And if two Armies be once on foot here in *England*, either a suddain Enconter must destroy one of them, or the keeping of them on foot, must destroy the Kingdom.

I hope therefore we shall make it our endeavour, by Moderation and Calmnesse, yet to put a stay to our so near ap-

proaching miseries, and that we shall hearken to the wise advice of our Brethren of Scotland in their late Answer to the King and Parliament, wherein they earnestly entreat us, *That all means may be forborn, which may make the Breach wider, and the Wound deeper, and that no place be given to the evil Spirit of Division, which at such times worketh uncessantly, and resteth not: But that the fairest, the most Christian, and compendious way may be taken by so wise a King and Parliament, as may (against all Malice and Oppositions) make his Majesty and Posterity more glorious, and his Kingdom more happy than ever.* And in another place they say, *That since the Parliament hath thought meet, to draw the Practice of the Parliament of Scotland into Example, in point of Declaration: They are confident that the Affection of the Parliaments will lead them also to the Practice of that Kingdom, in composing the unhappy Differences betwixt his Majesty and them, and (so far as may consist with their Religion, Liberties, and Laws) in giving his Majesty all satisfaction, specially in their tender Care of his Royal Person, and of his Princely Greatness and Authority.*

Certainly (MY LORDS) this is wise and brotherly Advice, and I doubt not but we are all desirous to follow it. We must not then still dwell upon generals (for generals produce nothing) But we must put this Business into a certain way, whereby particulars may be descended unto; And the way that I shall offer with all humility is, That there may be a select Committee of choise Persons of both Houses, who may, in the first place truly state, and set down all things in difference betwixt the King and the Subject, with the most probable way of reconciling them: Secondly, to descend unto the particulars, which may be expected by each from other, either in point of our supporting of him, or his relieving of us. And lastly, how all these Conditions, being agreed upon, may be so secured, as may stand with the Honor of his Majesty, and the satisfaction of the Subject.

When such a Committee shall have drawn up the heads of the Propositions, and the way of securing them, they may be presented unto the Houses, and so offered unto his Majesty by such a Way, as the Parliament shall Iudge most probable to produce an Accommodation.

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MY LORDS, What I have said unto you, hath been chiefly grounded upon the Apprehensions, and Fears of our future Dangers, I shall say something of the unhappiness of our present Estate, which certainly standeth in as much need of Relief and Remedy, as our Fears do of Prevention; For although the King and People were fully united, and that all men that now draw several waies, should unanimously set their hand to the work, yet they would find it no easie task, to restore this Kingdom to a prosperous and comfortable Condition: If we take into our Consideration the deplorable Estate of *Ireland*, likely to drain this Kingdom of Men and Treasure: if we consider the Debts and Necessity of the Crown, the Ingagements of the Kingdom, the great and unusual Contributions of the People, the which although they may not be so much to their Discontent, (for that they have been legally raised) yet the burthen hath not been much eased: let us likewise consider the Distractions (I may almost call them Confusions) in point of Religion, which of all other Distempers are most dangerous and destructive to the Peace of a State.

Besides these publique Calamities, let every particular man consider the distracted discomfortable estate of his own Condition: for mine own part, I must ingenuously profess unto your Lordships, That I cannot find out (under the different Commands of the King and the Parliament) any such Course of Caution and Wariness, by which I can promise to my self Security or Safety. I could give your Lordships many instances of the Inconsistency and impossibility of obeying these Commands: But I shall trouble you with only one or two.

The Ordinance of Parliament (now in so great agitation) commandeth all Persons in Authority, *to put it in execution, &c* all others *to obey it according to the Fundamental Laws of the Land*: The King declareth it to be *contrary to the Fundamental Laws, against the Subject, and Rights of Parliament*; And commandeth all his Subjects of what sort soever, upon their Allegiance *not to obey the said Ordinance*, as they will answer the contrary at their perils.

So likewise in point of the King, commanding *the Attendance of divers of us upon his Person*, whereunto we are obliged

ged by several relations of our Services and Oaths; in case we comply not with his Commands, we are liable to his displeasure, and the loss of those places of Honor and Trust, which we hold under him: if we obey his Commands, without the leave of the Parliament (which hath not been alwaies granted) we are liable to the Censure of Parliament, And of both these we want not fresh Examples. So that certainly this cannot but be acknowledged to be an *unhappy and uncomfortable Condition.*

I am sure I bring with me a ready and obedient Heart, to pay unto the King all those Duties of Loyalty, Allegiance, and Obedience which I owe unto him; And I shall never be wanting towards the Parliament, to pay unto it all those due Rights, and that Obedience which we all owe unto it. But in contrary Commands a Conformity or Obedience to both, is hardly to be lighted on. The Reconciliation must be in the Commanders, and the Commands; and not in the Obedience, or the Person that is to obey. And therefore untill it shall please God to bless us with a right understanding betwixt the King and Parliament, and a Conformity in their Commands, neither the Kingdom in publick, nor particular men in private, can be reduced to a safe or comfortable Condition.

I have said thus much to give Occasion to others to offer likewise their Opinions; For if we shall sit still, and nothing (tending to the stay of the unhappy misunderstandings, namely betwixt the King and his People) be propounded: It is to be feared, that our miseries will hasten so fast upon us, that the season and opportunities of applying Remedies may be past.

I have herein discharged my Conscience, suitable to that duty, which I owe to the King my Sovereign and Master, and suitable to that zeal and affection, which I shall ever pay to the happiness and prosperity of the Kingdom, towards which I shall ever faithfully contribute my humble Prayers and honest endeavours. And I shall no waies doubt (whatsoever success this my Proposition may have) it will be accompanied with the good wishes of your Lordships and of all peaceable and well-minded men.

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*The Earl of Bristols Speech in
the House of
Peers.*

The 11 of June. 1642.

My Lords,

YOU were pleased not many daies since, to declare your displeasure for the printing of a Speech made by me in this House, on the 20 of *May* last; and the Cause of your displeasure was declared to be, for that the said Speech did seem to insinuate, that my former motions for *Accommodation*, had found but little Acceptance, whereby there was cast upon the House an Imputation, as though it should not be inclined thereunto.

Your Lordships Displeasure in that kind hath given me Incouragement to renew my former Motion, hoping it may be now more seasonable than at former times; At least (*MY LORDS*) I fear it is at such a season, that whosoever is desirous to move for the preventing of a Civill War, ought to speak now, or he may hereafter hold his peace; For differences are reduced to that height of opposition, betwixt his Majesty and the Houses, that if some speedy means be not laid hold off for the allaying and reconciling of them, it is to be feared, that a very few daies will change our Contestations, which yet are but in words and writing, into actions of blood and open Hostility, the which certainly may yet by your Lordships wisdoms be prevented; but being once begun, will not be remedied, but after long time, and unspeakable misery.

The way that I presumed formerly to offer was, that this Honorable House would be pleased to move, that a select Committee of choise Persons of both Houses might be nominated, who may truly state, and set down all things in difference

rence between the King and the Subject, with the most probable waies of reconciling of them : Secondly to descend unto the particulars , which may in reason be expected by each from other, either in point of our supporting of the King, or of his relieving of us ; and lastly, how all those Conditions being agreed upon, may be fittingly secured.

MY LORDS. The greatest difficulty (as appeareth unto me) in this point of *Accommodation* (which so highly importeth the good of the King, of the Kingdom, and our own) consisteth in the beginning of it, For certainly, if it once were put in a way (being accompanied with the Inclination which your Lordships expresse to it , and with those earnest desires which the King professeth by his so many Invitations , that we would clearly set down all that (from him) would give us satisfaction) it could not miss of a happy, and blessed Conclusion : For, in substance, if our desires be suitable to our professions, we are agreed : For our professions are that we intend to pay unto the King all Duties of *Loyalty* and *Obedience*, and to make him a *Glorious King*. The King saith, that to those great Liberties and Eases which he hath already granted unto us this Parliament, he is ready to adde any thing that shall be (with reason) further propounded unto him for our Comfort and Satisfaction, So that little seemeth to remain, but that from Generals we fall to the Individuals, and expresse particularly what we mean by making him a *Glorious King*, And paying unto him *Loyalty* and *Obedience* , And likewise that the Individuals for our further Comfort and satisfaction be propounded, So that the intentions of the one and the other being clearly known, if any thing remain in difference, it may by Treaty, and by calm waies of Debate be reconciled, Whereas the Professions which are now made on either side of desiring an *Accommodation*, being only in Generals, tend rather to a Vindication or Iustificacion of one part against the other, than any way to advance an *Accommodation*, whereas in particular Proposals, Reason and Equity would sway ; and if we do really desire *Peace*, as we profess, we should on both sides stretch toward the effecting of it, whereas if War be once on foot, it is no longer Reason and

and Justice which we make the Rules of our demands and Propositions, but Success; which as it is unequitable, So it is a leaden uncertain Rule, bowing and bending to the various chances of War, and of Advantage; And therefore if we do heartily desire *Peace*, Let's follow our Saviours Counsell. Agree with our Adversary whilst he is yet on the way, Otherwise we shall find by sad experience, that, that which might now be easily prevented, shall hardly hereafter be remedied.

If a War happen to be here in *England*, (which God avert) it cannot be but most bloody and fierce, for being shut up here in an *Island*, we shall fight as in a Cock-pit; And there being in the Kingdom few considerable strengths, there must of necessity be more fighting in a year or two, than hath been in the Low Countries in twenty. It is probable the War will not be so long, but it will be more bloody; And if we should prevail for the present, there will remain a succession of troubles. We all bear a reverence to Monarchy, under which, we and our Ancestors have lived so many Ages, And the King is blessed with a plentiful Issue, And our Professions and Intentions are not to cast off just Subjection, but to preserve just Liberty, which I am most confident we may do without the hazard of a War; And what with our ancient Privileges, his Majesties new Concessions, and what he yet further offereth, we may remain the happiest and the freest Subjects that live under any King; The King likewise whatsoever Success he may have, will be no Gainer by a War, For if he should conceive by Force to introduce an Arbitrary Government, (which I am most assured is far from his thoughts) he will find his own Adherents, his chief opposers; who although they may fight in defence of his Person, and just Rights, according to their Oaths and Allegance, yet they will be loath to fight themselves into slavery. So that what is good for him, will be good for us, which is an happy and equitable Agreement, and the contrary will make both miserable, in so great a degree, that as now we may be justly esteemed the happiest Kingdom in *Europe*, and the very Envy of all our Neighbours; So in a short time, if a Civill War break in amongst us, we shall remain the Scorn or the Pitty of them.

I am far from thinking that any of your Lordships are less inclined to an *Accommodation* than my self, but some body must be the mover, And those miserable spectacles, which mine eyes have of late years beheld in the *Palatinate* and in *Germany*, make me zealous and importunate, that they be prevented here, if such be Gods holy will, if not, yet I shall have this particular Comfort (what fortune soever shall befall me) That as I am assured that I have had no hand in any those things which have caused the unhappy differences betwixt the King and his People, so I shall appeal unto your Lordships, if I have not been subservient unto your Lordships in all things, that might have removed these misunderstandings, and to have employed my Indeavours and solicitation, even unto Importunity, for the setting on foot some way of *Accommodation*, wherby only our unspeakable Calamities (and very near at hand) can be diverted from us.

Nineteen Propositions sent unto his Majesty the 2 of

June 1642:

1. **T**hat the Lords and others of your Majesties privy Counsell, and such great Officers and Ministers of State, either at home or beyond the Seas, may be put from your Privy Counsel, and from those Offices and Employments, excepting such as shall be approved of by both Houses of Parliament; And that the Persons put into the Places and Employment of those that are removed, may be approved of by both Houses of Parliament. And that Privy Counsellours shall take an Oath for the due execution of their Places, in such form as shall be agreed upon by both Houses of Parliament.

2. That the great Affairs of the Kingdom may not be concluded or transacted by the Advice of Private Men, or by any unknown, or unsworn Counsellors; but that such matters as concern the Publique, and are proper for the high Court of Parliament, which is your Majesties great and supreme Counsel, may be debated, resolved, and transacted only in Parliament, and not elsewhere; And such as shall presume to do any thing to the contra-

ry, shall be reserved to the Censure and judgment of Parliament; And such other matters of State as are proper for your Majesty's privy Counsell, shall be debated and concluded by such of the Nobility and others, as shall from time to time be chosen for that Place by Approbation of both Houses of Parliament. And that no publick Act concerning the Affairs of the Kingdom, which are proper for your Privy Counsell, may be esteemed of any Validity as proceeding from the Royal Authority, until it be done by the advice and consent of the Major part of your Counsell, attested under their hands. And that your Counsell may be limited to a certain Number, not exceeding twenty five, nor under fifteen; And if any Counsellors place happen to be void in the Interval of Parliament, it shall not be supplied without the Assent of the Major part of the Counsell, which choice shall be confirmed at the next sitting of Parliament; or else to be void.

3. That the Lord High Steward of England, Lo. High Constable, Lo. Chancellor, or Lo. Keeper of the Great Seal, Lo. privy Seal, Earl Marshal, Lo. Admiral, Warden of the Cinque Ports, chief Governor of Ireland, Chancellor of the Exchequer, Master of the Wards, Secretaries of State, two chief Iustices and chief Barons may always be chosen, with the Approbation of both Houses of Parliament; and in the Intervals of Parliaments by Assent of the major part of the Counsell, in such manner as is before expressed in the choice of Counsellors.

4. That he or they, unto whom the Government and Education of the Kings Children, shall be committed, shall be approved of by both Houses of Parliament; and in the Intervals of Parliament, by the Assent of the Major part of the Counsell, in such manner as is before expressed in the choice of Counsellors; And that all such servants as are now about them, against whom both Houses shall have any just exceptions, shall be removed.

5. That no Marriage shall be concluded, or treated for any of the Kings Children, with any forein Prince, or other Person whatsoever abroad or at home, without the Consent of Parliament, under the penalty of a praemunire unto such as shall conclude or treat any Marriage as aforesaid; and that the said penalty shall not be pardoned, or dispensed with, but by the Consent of both Houses of Parliament.

6. That the Laws in force against Jesuits, Priests, and Popish Recusants, be strictly put in Execution without any toleration or dispensation to the contrary; And that some more effectual Course may be enacted by authority of Parliament; to disable them from making any Disturbance in the State, or eluding the Law by Trusts or otherwise.

7. That the Votes of Popish Lords in the House of Peers may be taken away, so long as they continue Papists; And that your Majesty will consent to such a Bill as shall be drawn for the Education of the Children of Papists by Protestants in Protestant Religion.

8. That your Majesty will be pleased to consent, that such a Reformation be made of the Church Government and Liturgy, as both Houses of Parliament shall advise; wherein they intend to have consultation with Divines, as is expressed in their Declaration to that purpose; And that your Majesty will contribute your best assistance to them, for the raising of a sufficient maintenance for preaching Ministers throughout the Kingdom; and that your Majesty will be pleased or give your Consent to Laws for the taking away of Innovations, and Superstition, and of Pluralities, and against scandalous Ministers.

9. That your Majesty will be pleased to rest satisfied with that Course that the Lords and Commons have appointed for ordering of the Militia, untill the same shall be further settled by a Bill; And that your Majesty will recall your Declarations and Proclamations against the Ordinance made by the Lords and Commons concerning it.

10. That such Members of either House of Parliament as have during this present Parliament been put out of any Place and Office, or otherwise, have satisfaction for the same, upon the Petition of that House whereof he or they are Members.

11. That all privy Counsellors and Judges may take an Oath, the form whereof to be agreed on, and settled by act of Parliament, for the maintaining of the Petition of Right, & of certain Statutes made by this Parliament, which shall be mentioned by both Houses of Parliament; and that an Inquiry of all the breaches and violations of those Laws, may be given in charge by the Justices of the Kings Bench every Term, and by Judges of Assize

ſiſe in their Circuits, and Juſtices of the Peace at the Sessions, to be presented and punished according to Law.

12. That all the Judges and all the Officers Places by Approbation of both Houses of Parliament may hold their Places, Quamdiu bene se gesserint.

13. That the Justice of Parliament may pass upon all Delinquents, whether they be within the Kingdom, or fled out of it, And that all Persons cited by either House of Parliament, may appear and abide the Censure of Parliament.

14. That the general Pardon offered by your Majesty may be granted with such Exceptions as shall be advised by both Houses of Parliament.

15. That the Forts and Castles of this Kingdom may be put under the Command and Custody of such Persons as your Majesty shall appoint, with the Approbation of your Parliament; and in the Intervals of Parliament, with the Approbation of the Major part of the Counsel, in such manner as before is expressed in the Choise of Counsellors.

16. That the extraordinary Guards and Military Forces now attending your Majesty may be removed and discharged, and that for the future you will raise no such Guards or extraordinary Forces, but according to the Law, in case of actual Rebellion or Invasion.

17. That your Majesty will be pleased to enter into a more strict alliance with the States of the United Provinces, and other Neighbour Princes, and States of the Protestant Religion, for the defence and maintenance thereof, against all designs and attempts of the Pope and his Adherents to subvert and suppress it, whereby your Majesty will obtain a great access of Strength and Reputation, and the Subjects be much encouraged and enabled in a Parliamentary way for your aid and assistance, in restoring your Royal Sister and her Princely Issue, to those Dignities and Dominions which belong unto them, and relieving the other distressed Protestant Princes who have suffered in the same Cause.

18. That your Majesty would be pleased by Act of Parliament to clear the Lord Kimbolton and the five Members of the House of Commons in such manner, that future Parliaments may be
se-

cured from the Consequent of that evill President.

19. *That your Majesty Will be pleased to pass a Bill for restraining Peers made hereafter, from sitting or voting in Parliament, unless they be admitted therunto with the Consent of both Houses of Parliament.*

H. ELSYNG, CLER. PARL. D. COM.

The Oath of Supremacy, Cited page 31.

I, A. B. do utterly testifie and declare in my Conscience, that the Kings Highness is the only Supreme Governor of this Realm, and of all other his Highness Dominions and Countries, as well in all Spiritual or Ecclesiastical things, or causes, as Temporal, &c. I do promise that from henceforth, I shall bear Faith and true Allegiance to the Kings Highness, his Heirs and lawfull Successors, and to my power shall assist and defend all Jurisdictions, Privileges, Preheminences, and Authorities granted or belonging to the Kings Highness, his Heirs and Successors, or united or annexed to the Imperial Crown of this Realm. So help me God, and by the Contents of this Book.

The Oath of a Privy-Counsellor, Cited page 32.

You shall swear to the uttermost part of your cunning, wit, skill, and power. you shall be true and faithfull to the Kings Majesty our most dread and Sovereign Lord, and to his Highness Heirs and Successors, Kings and Queens of England, according to the Statute for the establishment of the Succession of the Crown Imperial of this Realm; You shall not know nor hear any thing that may in any wise be prejudicial to his Majesty, or to his Heirs and Successors in form aforesaid, or to the Common Wealth, Peace and Quiet of this his Majesties Realm; but you will with all diligence reveal, and disclose the same to his Majesty, or to such Person, or Persons of his Highness Privy-Counsel, as you shall think may and will honestly convey and bring it to his Majesties knowledge; You shall serve his Majesty truly and faithfully in the room and place of his Highness Privy-Counsel: You shall keep close
and

and secret all such matters as shall be treated, disputed, debated, and resolved of in Counsell, without disclosing the same or any part thereof, to any but only to such as be of the Privy-Counsell; And yet if any matter so propounded, treated, disputed, and debated in any such Counsell, shall touch any particular person sworn of the same upon any such matter as shall in any wise concern his fidelity and truth to the Kings Majesty, you shall in no wise open the same to him, but keep it secret as you would do from another person, till the Kings pleasure be known in that behalf: You shall in all things to be moved, treated, disputed, and debated in any such Counsell, faithfully and truly declare your mind and opinion according to your heart and conscience, in no wise forbearing so to do for any matter of respect or favour, love, meed, dread, displeasure, or corruption. Finally you shall be vigilant, diligent, and circumspect in all your doings and proceedings touching the Kings Majesty and his Affairs. All which points before expressed, you shall faithfully observe, fulfill, and keep to the utmost of your power, wit, and cunning. So God you help and by the holy Contents of this Book.

The Negative Oath, Cited page 32.

I, A. B. do swear from my heart, that I will not directly nor indirectly adhere unto, or willingly assist the King, in this War, or in this Cause, against the Parliament, nor any forces raised without the Consent of the two Houses of Parliament in this Cause or War. And I do likewise swear that my coming and submitting my self under the power and protection of the Parliament is without any manner of design whatsoever, to the Prejudice of the proceedings of the two Houses of this Present Parliament, and without the privy or advice of the King or any of his Counsell or Officers, other than what I have now made known. So help me God, &c.

An Act of Parliament 1 Jac. cap. 1. acknowledging the Right of the Crown to him and his successors by inherent birth-right, &c. Cited page 19.

We do upon the knees of our hearts agnize constant Faith, Loyalty, and Obedience to the King & his Royal Progeny

in this high Court of Parliament, where all the body of the Realm is either in person or by representation. We do acknowledge that the true and sincere Religion of the Church is continued and established by the King, And do recognize as we are bound by the Law of God and man, the Realm of *England*, and the Imperial Crown thereof doth belong to him, by inherent Birth-right, and lawful and undoubted succession; and submit our selves and our posterities (until the last drop of our blood be spent) to his Rule; And beseech the King to accept the same, as the first fruits of our Loyalty and Faith to his Majesty and his posterity for ever; And for that this Act is not compleat nor perfect without his Majesties Consent, the same is humbly desired.

*A Declaration which Offences shall be adjudged Treason,
Anno 25 Edw. 3. cap. 2. Cited pa. 35.*

Whereas divers Opinions have been before this time, in what Case Treason shall be said, and in what not; The King at the request of the Lords and of the Commons hath made a Declaration in the manner as hereafter followeth; That is to say, when a man doth compassse or imagine the death of our Lord the King, or if our Lady his Queen, or of their eldest Son and Heir: or if a man do violate the Kings Companion, or the Kings eldest Daughter unmarried, or the Wife of the Kings eldest Son and Heir, or if a man do levy War against our Lord the King in his Realm, or be adherent to the Kings Enemies in his Realm, giving to them aid and Comfort in the Realm or elsewhere, and thereof be proveably attainted of open deed by people of their Condition. And if a man Counterfeit the Kings great or privy Seal, or his money; and if a man bring false money into this Realm, counterfeit to the money of *England*, as the money called *Lusburg*, or other like to the said money of *England*, knowing the money to be false, to merchandise or make paiement, in deceit of our said Lord the King, and of his people, &c.

Certain Articles taken out of a Protestation of the Kings Supremacy made by the non-conforming Ministers which were

were, suspended or deprived, 3 Jac. Anno Dom.

1605. Cited page 51.

Art. 4. We hold, that though the Kings of this Realm were not Members of the Church, but very Infidels, yea, and Persecutors of the truth, that yet those Churches that shall be gathered together within these Dominions, ought to acknowledge and yield the said Supremacy unto them. And that the same is not tyed to their Faith and Christianity, but to their very Crown, from which no Subject or Subjects have power to separate or disjoin it.

Ar. 6. We hold, that no Church or Church-Officers have power for any Crime whatsoever, to deprive the King of the least of his Royal Prerogatives whatsoever, much lesse to deprive him of his Supremacy, wherein the height of his Royal Dignity consists.

Ar. 9. We hold, that though the King should command any thing contrary to the word unto the Churches, that yet they ought not to resist him therein, but only peaceably to forbear Obedience, and sue unto him for Grace and Mercy, and where that cannot be obtained, meekly to submit themselves to the punishment.

Animadversions upon some particulars set down in the 57 & 58 pages of this Discourse, there referred to this Appendix, for not interrupting the Series thereof, here expressed more fully.

If Ordinances without the Kings assent, should have the force of Acts of Parliament; our Lives, Estates, and Laws might be Arbitrarily disposed of by the two Houses; for that Acts of Parliament have undeniably Power over them all.

If Ordinances have power of Acts of Parliament, the King hath no negative Voice, which hath been acknowledged in all times, and that no Act of Parliament bindeth the subject without the Kings assent, neither is it otherwise a Statute. 12 H. 7. 24 H. 8. cap. 12. 25 H. 8. cap. 21. This hath likewise been acknowledged several times at the beginning of this Parliament, before the Doctrine of Coordination was hatched, as will appear by their books of *Ordinances and Declarations*.

I. That Ordinances of the two Houses without the King, have not the power of Acts of Parliament.

1 *par. fol. 727. 1 Lac. cap. 1. 1 Car. 1 Cap. 7.*

If the King hath not his negative Voice, he were the only Slave in his Kingdom; for that he alone should be tyed to Laws, to which he had not assented; whereas all other men either by themselves or their Representatives give their Consents to the Laws they live under, which is the true mark betwixt Slavery and free Subjection; Slaves living under the will of the Prince; free Subjects under Laws to which themselves or their Ancestors have assented: And the King only shall be bound and sworn to those Laws, which are imposed upon him without his Consent, which were irrational as well as illegal.

Ordinances were never pretended but only *pro tempore*. 4 *part. 1. ff. fol. 23. 48. 292. 1 part. Inst. fol. 47, 48. Rot. Pa. 1 num. 4 Ed. 3.*

2. The Militia belongeth to the King, as unseparable from the Crown, without which he cannot protect nor punish, withstand Enemies or suppress Rebels; The Lords and Commons cannot assent in Parliament to any thing that tends to the disherison of the Crown, 4 *Par. Inst. fol. 14. 42 Ed. 3.*
That the ordering of the Militia appertaineth to the King.

The Law doth give it him, *Stat 7 Ed. 1.* with many other Statutes, besides practice of all times, and custome of the Realm, *Cook 4 part. Inst. 51. 125.*

The Forts and Navy Royal are his; and to seize any of them is Treason. 25 *Ed. 3. 1 Ma. &c.* So declared by all the Judges of England in *Brookes Case*.

3. The great Seal being the Power by which the Kings Royal Commands are legally distributed and conveyed, cannot be severed from the Crown, without the overthrow and destruction of Sovereignty. 2 *part. Inst. 552.* And to counterfeit the great Seal is high Treason. 25 *Ed. 3. 1 H. 4. cap. 2. 1. Mar. sess. 2. cap. 6.*
That the great Seal appertaineth only to the King.

4. The Church Government.

For the Church Government, The Houses have sworn the King to be the only Supreme Governor in all Causes and over all Persons as well Ecclesiastical as Civil. The two Houses of Parliament may humbly offer to the King such Alterations and Reforms in Government as they shall think fit: But to overthrow and change the Government without the

the Consent of the sole Supreme Governor, nay contrary to his expresse Command and publique Declarations, is against natural Reason and Common Law, as well as against the said Oath.

The two Houses are (as they say) the Kings great Council, which is true of the House of Peers, The House of Commons Writ is only *ad faciendum & consentiendum*: But admitting them to be the Kings great Council, it is a great absurdity and Non-sense, that Counsellors should compel consent.

The Government of the Church is established by Law, and by many Acts of Parliament, To advise the repealing of the said Acts, the Houses may do; But without the Kings assent by force to endeavour the Change of the Government, either in Church or Estate, is high Treason, so acknowledged by Mr. St. Johns at the Arraignment of the Earl of Strafford, and so declared by several Laws. And was one of the Charges of Treason against the Lord of Canterbury.

It is contrary to all Divine and humane Laws that any Man should be condemned unheard or untryed. And the Law of the Land in *Magna Charta* ordereth, That no man lose life or Estate but *per judicium parium, aut legem terra*: And the Stat. 3. *Phil. & Mar.* that all Tryals for Treason be by Course of the Law, *Petition of Right*, 3. *Car.*

It is an Inherent flower of the Crown, And by the Common Law, Mercy belongeth to him as well as Iustice; And is so expressly declared, and annexed unto the King by the Stat. of the 27 *H. 8. c. 14.*

The Revenues of the Church have been annexed unto it for the better part of one thousand years, confirmed by many Charters from all our Kings, have Prescription of many hundreds of years, and are firmly annexed to the Church, as Law, Charters, or Prescription can settle them; Now if these Revenues shall be taken away and disposed of without processe of Law, without the Kings consent who is sworn to uphold them, and is founder of them all, without the consent or forfeiture of the Possessors; What man can think he hath a better Title to any thing he holdeth, or assure himself of any Land, or other thing he possesseth for one day longer than the

5.

The prescribing
of their fellow
Subjects with-
out tryal.

6.

To grant Par-
dons belongeth
only to the K.

7.

The taking a-
way of the
Lands of Bi-
shops and Ec-
clesiastical Churches.

Houses shall please? Besides it is against *Magna Charta*, the Law, and the Kings Oath, and the Usance of the Kingdom in all times.

8.
The Court of
Wards.

For the King to have Wardships, is an inheritance and Right of the Crown, approved by the Common Law of *England*, and acknowledged and submitted unto in all Ages; And the Court of Wards is settled and established by Act of Parliament in the time of H. 8 And it was indeavoured to be compounded for at a valuable consideration in the time of King *James*, and by him refused, because it was so great a flower of his Crown as was not fit to be severed from it. And now if the Houses should force a Bargain at their own pleasure, and their own price, it were contrary to all Law, all Reason, and Moral Justice, and to the disherison of the Crown.

9.
Touching the
Kings Children.

The detaining of the Kings Children under their governance: The ordering of their Education, and their future Marriage cannot belong unto the Houses, but unto the King, by all divine & human Laws, and by the Law of Nature; Neither is the contrary any where practised, but by the great Turke.

10
Touching im-
posing of new
Oaths.

No new Oaths can be imposed upon the Subject, but by the warrant of an Act of Parliament, as is declared by the Petition of Right, and is so settled by the Act of 3. *Car.* and hath been so declared during this Parliament by the two Houses, upon occasion of the new Canons, as appears in the Collection of their own Orders, pag. 159. 160. 908. 910. And we find the two Oaths of Supremacy and Alleageance, the first, in 1. *Eliz.* the second in 3 *Iac.* were both framed and enjoined to be taken in and by several Acts of Parliament: and yet now do the Houses presse Oaths upon their fellow Subjects, utterly inconsistent with the other legal Oaths which they have formerly taken; and for the refusal of their Oath of Covenant and of their Negative Oath, (in expresse tearms to abjure their Alleagiance to their Sovereign) they condemn them of Malignancy (a new word of Art, not formerly known to the Laws of *England*.)

11.
Concerning
Treason.

It is defined by the Act of the 25. *Ed. 3. cap. 2.* and afterward 1 H. 4. & 2 *Ma.* that Act was confirmed and enacted

sted, That nothing should be adjudged Treason, but what is declared to be so by the Statute of the 25. Ed. 3. or should be afterwards declared to be Treason, by Parliament, which is understood to be by Act of Parliament, which cannot be without the Kings Royal assent; and therefore in the Reign of H. 8. we find several Treasons enacted to be so by Parliament, which afterwards were all repealed, by that of the 2 Mar. And again in the Reign of Queen Mary, Queen Eliz. and King James, new Treasons declared by new Acts of Parliament in their several times: But now in this present Sessions, the two Houses in many several Cases singly of themselves without the solemnity of an Act, by an Ordinance only, have ordered that men should die as Traitors, and lose their whole Estates without pardon or mercy, for such supposed crimes; as formerly were so far from being Treason, as that they are not legally crimes or misdemeanors, as may be instanced in divers particulars, out of their own Coll. of Orders.

The treating with forein Princes and States, the making of Peace and War, and the sending of Ambassadors or Messengers to those purposes, are Acts meerly regal and inherent in the Crown, and never questioned till now By the Statute of 2. H. 5. cap. 6. The breaking of Truce and Safe-Conducts is enacted to be Treason, so much it importeth the Honour of the Crown. The King may out of doubt conclude Peace or proclaim War without his Houses of Parliament. But to contribute to the maintenance of a forein War, the Assent of the Houses is necessary, it being in their free liberty to give or not to give Subsidies or other Aides to that purpose. But for the making of Peace or War they have no Votes, but it is in the sole power of the King. Yet doubtlesse Kings do the more prudently, when they take the advice and affections of their people along with them in those weighty affaires, especially in making a War with a forein Prince or people, otherwise they shall hardly have the Assistance of their purses, without which the Kings of England can hardly make or maintain a War to their Advantage.

The nominating of Iudges, Sheriffs, Iustices of Peace, &c.

was

12.
The treating
with forein
Princes and
States.

13.
The nominating of Iudges,
Sheriffs, Iustices, &c.

was never pretended unto by the Parliament, but in tumultuous and rebellious times ; and the Kings of *England* for some hundred of years last past have nominated and appointed them by their Writs or Commissions under their great Seal. And by the Acts of *9. Ed. 2.* the Statute of *Lincoln*, and *12. R. 2. cap. 2.* it is appointed how the choice of Sheriffs and other publique Ministers of Justice shall be recommended to the King, and that the King hath the sole appointing of them. And it is so settled by Act of Parliament, the *37. H. 8.* That such nominations do and shall wholly belong unto the King and his Successors, &c.

By these Animadversions it will clearly appear, That the particulars which are mentioned in the 57 and 58 pages of this Discourse, are meerly usurped and intruded upon by the Houses, but *de jure* do solely and wholly belong unto the King, or can have no life without him ; which was thought fit rather to be added by this Appendix, than by inserting them in the Discourse it self, for not interrupting the Series thereof.

FINIS.
